

***The Regulatory Framework of Political Parties in
Germany, the United Kingdom, New Zealand
and Singapore***

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Executive Summary

1. This research studies the regulatory framework of political parties in Germany, the United Kingdom (UK), New Zealand and Singapore. In the four places studied, the modes of regulatory framework are quite different. Political parties in Germany are subject to a wide range of legal regulations, including the constitution, rulings of the constitutional court, a specific law on political parties and relevant provisions of electoral laws.
2. In the UK, there is specific legislation regulating the registration, donation and expenditure of political parties. New Zealand does not have separate legislation for political parties. It mainly uses its electoral law to govern the registration, donation and campaign expenditure of political parties.
3. Singapore also does not have specific legislation for political parties, which are nonetheless subject to a wide range of legal regulations covering various aspects of political parties. In the Hong Kong Special Administrative Region (HKSAR), there are only a handful of legal provisions in relation to political parties.
4. In Germany, the UK and New Zealand, the establishment of a political party does not require special registration. However, political parties in these three places are required to register with designated electoral authorities in order to be eligible for certain elections.
5. In Singapore, the establishment of a political association is required to be registered under *the Societies Act (SA)*. It has to confine its membership to citizens of Singapore and must not have affiliation or connection with any organization outside Singapore that is considered to be contrary to the national interest.
6. In HKSAR, most major political parties are registered as companies under the *Companies Ordinance*. In addition, five societies registered under the *Societies Ordinance (SO)* have fielded candidates for the general election or by-election for either the Legislative Council or District Councils.
7. Only Germany has specific legal provisions related to the banning of political parties. In Germany, the Federal Constitutional Court is empowered to decide on the question of constitutionality of a political party based on whether the party aims at obstructing or abolishing the system of democracy.
8. In Singapore, under SA, a Minister may order dissolution of a political association when the political association has affiliation or connection with certain foreign organizations and fails to sever that affiliation or connection. In HKSAR, under SO, the Societies Officer may recommend to the Secretary for Security to make an order prohibiting the operation of a society.

9. In the UK, New Zealand, Singapore and HKSAR, there are legal provisions related to the banning of political organizations, which primarily concern public order and terrorism.
10. In all of the places studied, there are detailed legal provisions regulating donations to political parties. In both the UK and Singapore, permissible donors are defined by relevant legislation. In Germany, the law prohibits certain kinds of donations. In New Zealand, political parties are allowed to accept donations from both known persons (including corporations) and anonymous sources.
11. In all of the places studied, there is no limit on donations to political parties. In HKSAR, there is no rule regulating donations to political parties.
12. In Germany, public funding of political parties is prescribed by law. Levels of funding of political parties are based on the number of votes, party membership and private contributions. Traditionally, public funding of political parties in the UK has been mainly confined to financial assistance to opposition parties in Parliament.
13. In New Zealand, public funding is available for political parties to perform their parliamentary duties. Singapore as well as HKSAR do not provide any financial assistance for political parties to run election campaigns or to perform their parliamentary work.
14. In all of the places studied, extensive restrictions are placed on the use of broadcasting media for political advertising. However, they all offer free or discounted air time on radio and television to political parties at elections.
15. In HKSAR, commercial broadcasters, including operators of television and radio channels, are generally not allowed to accept advertisements of a political nature. Political parties in HKSAR are not provided with either air time or money for broadcasting at elections.

The Regulatory Framework of Political Parties in Germany, the United Kingdom, New Zealand, and Singapore

Chapter 1 - Introduction

1.1 Background

1.1.1 The Panel on Constitutional Affairs of the Legislative Council (LegCo), at its meeting on 17 November 2003, requested the Research and Library Services Division (RLSD) to conduct a research on the law on political parties in overseas places.

1.2 Scope of research

1.2.1 The research focuses on the regulatory framework of political parties in selected political systems. In particular, the research covers:

- (a) modes of regulatory framework;
- (b) registration requirements;
- (c) proscription of political parties;
- (d) rules for party and campaign financing;
- (e) regulation of selection of candidates for election;
- (f) rules on party operations; and
- (g) other related rules such as broadcasting rules and anti-defection rules¹.

1.2.2 This research studies the regulatory framework of political parties in Germany, the United Kingdom (UK), New Zealand and Singapore.

¹ They are used to avoid parliamentary representatives defecting to another party between elections.

1.2.3 Germany is chosen because its political parties are regulated by detailed provisions in its constitution and legislation. The UK is chosen because its regulatory system of political parties has some major developments in recent years. New Zealand is chosen because of its experience in formalizing rules for the regulation of political parties with the introduction of a proportional representation electoral system in 1996. Singapore is chosen because it serves as a useful reference in the Asian context.

1.3 Methodology

1.3.1 Information for preparing this report was obtained from the Internet, government documents and relevant materials. Enquiries were also sent to the relevant authorities in the selected places.

Chapter 2 - Germany

2.1 Basic information

2.1.1 Germany is a federal republic with a bicameral legislature — the Bundestag and Bundesrat. The Bundestag is the popularly elected federal legislature. Half of the members of the Bundestag are elected in the constituencies, while the other half are elected by proportional representation from lists of candidates drawn up by the political parties in each federal state (Land). The Bundesrat consists of members representing the federal states.

2.1.2 The Head of State is the Federal President, who is not directly elected.² The Federal Chancellor (the Head of Government), who is elected by the Bundestag, leads a Cabinet consisting of Federal Ministers. Neither the Federal Chancellor nor the Federal Ministers are required to be members of the legislature.

2.1.3 Germany adopted a constitution in 1949, called the *Basic Law of the Federal Republic of Germany (BL)*. The Federal Constitutional Court (FCC), established by *BL*, has the exclusive responsibility to decide on questions of the constitutional law and to interpret *BL*.

2.2 Regulatory framework

2.2.1 In Germany, political parties are regulated by *BL*, rulings of FCC, a specific law on political parties, and relevant election laws. Some European and international human rights laws also have an effect in this regard.

2.2.2 Articles 5 and 8 of *BL* provide for the right to form societies and associations except political parties, which are specifically catered for by a separate provision. Article 21 of *BL* explicitly recognizes political parties by providing that:

"(1) Political parties shall participate in the formation of the political will of the people. They may be freely established. Their internal organization must conform to democratic principles. They must publicly account for their assets and for the sources and use of their funds."

² He or she is elected by the Federal Convention, a constitutional body which convenes for this purpose.

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- (2) *Parties that, by reason of their aims or the behavior of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of the Federal Republic of Germany shall be unconstitutional. The Federal Constitutional Court shall rule on the question of unconstitutionality.*
- (3) *Details shall be regulated by federal laws."*

2.2.3 Germany signed the *European Convention on Human Rights*³ (*ECHR*) in 1950 and ratified it in 1952. Article 11 of *ECHR* protects the right to "freedom of association with others", which constitutes the right to choose whether or not to form and join associations such as political parties. *ECHR* has been incorporated into German law with the status of federal law.⁴ Under Article 34 of *ECHR*, political parties and other associations may bring cases before the European Court of Human Rights (ECtHR) if they are directly affected by legislation or state action which restricts the rights specified in *ECHR*.

2.2.4 Germany is also a signatory to the *International Covenant on Civil & Political Rights* (*ICCPR*). Article 22(1) of *ICCPR* provides that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."

2.2.5 Under both *ECHR* and *ICCPR*, the freedom of association can be restricted only under the following objectives:

- (a) in the interests of national security or public safety;
- (b) for the prevention of disorder or crime;
- (c) for the protection of health or morals; or
- (d) for the protection of the rights or freedoms of others.

Any restrictions must be "*prescribed by law*" and they must be "*necessary in a democracy*" to achieve one of the four objectives above.

³ *ECHR* is an international agreement made by the member states of the Council of Europe in November 1950. The Council of Europe, a separate entity from the European Union and the European Community, is an association of over 40 nations. *ECHR* consists of 66 Articles arranged in five sections. A series of protocols have been added, making further provisions and adding new rights. The European Court of Human Rights (ECtHR) is the enforcement machinery of *ECHR*. ECtHR hears complaints from individuals and states about alleged breaches of *ECHR* rights and freedoms under the Council of Europe.

⁴ For a detailed discussion of the effect of *ECHR* in Germany, see Andreas Zimmermann, "Germany," in Robert Blackburn & Jörg Polakiewicz ed., *Fundamental Rights in Europe*, Oxford: Oxford University Press, 2001.

2.2.6 FCC delivered numerous decisions regarding political parties between 1952 and 1996, which led to the enactment of formal legislation. In 1967, the Bundestag passed the *Law on Political Parties (LPP)* (revised in 1994), which consists of seven major sections:⁵

- (a) Section I : constitutional status and functions of parties;
- (b) Section II : internal organization of parties;
- (c) Section III : nomination of candidates for election;
- (d) Section IV : election expenses;
- (e) Section V : party accounts;
- (f) Section VI : imposition of a ban on parties that are unconstitutional;
and
- (g) Section VII : tax relief on donations to parties and party membership fees.

2.3 Registration requirements

2.3.1 In Germany, political parties have a somewhat ambivalent status. On the one hand, they are private organizations, either as registered or unregistered organizations established under the rules of private law.⁶ On the other hand, they are public in nature as certain constitutional privileges are granted to them. *BL* guarantees that political parties "*may be freely established.*"⁷ There is no provision in either *BL* or *LPP* that the establishment of a political party requires registration.

2.3.2 The registration and admission of a party to the European Parliament, Bundestag and local elections vary according to the relevant regulations specified in the federal and local election laws.

⁵ For an English version of *LPP*, see http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm.

⁶ Sections 21 & 55, *The German Civil Code*. For details on legal provisions for non-profit organizations, see Klaus Neuhoff, "Legal and Fiscal Provisions for Charitable and Non-profit Foundations and Related Institutions in Germany," in Paul Bater *et al.*, *The Tax Treatment of NGO's: Legal, Fiscal and Ethical Standards for Promoting NGO's and their Activities*, The Hague: Kluwer Law International, 2004, pp. 89-138.

⁷ Article 21(1), *BL*.

2.3.3 Political parties with the intention of participating in an election are required to give a notification of their intention to the Federal Returning Officer⁸ before the election, except those parties that have been continuously represented by at least five representatives in the Bunderstag or in a Landtag (state parliament) since the last election.⁹ The notification must include the name of the party and be signed by at least three members of the party's national executive committee. Other requirements are the party's statutes, the party's programme and the proof of a formal leadership.

2.3.4 The Federal Electoral Committee¹⁰ has the power to decide whether a political association should be recognized as a "party" under *LPP*. According to *LPP*, parties are defined as:

"associations of citizens which exert influence permanently or for longer periods of time on the formation of the political will at federal or Land level and participate in the representation of the people in the German Bundestag or regional parliaments (Landtag) provided that they offer sufficient guarantee of the sincerity of their aims in the general character of their circumstances and attendant conditions, particularly with regard to the size and strength of their organization, their memberships and their conduct in public. Only natural persons¹¹ may be members of a party."¹²

2.3.5 An organization loses its legal status as a party if it has not participated in either a federal or a local election for six years.¹³ In addition, a political organization is not considered as a party if:

- (a) the majority of its members or the majority of its executive members are foreigners; or
- (b) the location of the head office or the party management lies outside the purview of *LPP*.¹⁴

⁸ The Federal Returning Officer is appointed for an indefinite term by the Federal Minister of the Interior.

⁹ Article 18, the *Federal Electoral Law*.

¹⁰ The Federal Electoral Committee, established under the *Federal Electoral Law* and the *Federal Electoral Regulations*, consists of the Federal Returning Officer as the Chairman and eight other members, who are appointed by the Federal Returning Officer at the proposal of political parties.

¹¹ A natural person is any human being, with legal capacity commencing from time of birth. A legal person is an association of people or a special-purpose fund that is recognized by law as having legal personality.

¹² Article 2(1), *LPP*.

¹³ Article 2(2), *LPP*.

¹⁴ Article 2(3), *LPP*.

2.3.6 Political parties are required to submit the following documents to the Federal Returning Officer¹⁵:

- (a) the party's statutes and articles;
- (b) the party's programme; and
- (c) the names and functions of the executive members of the party and its local branches.

Copies of these documents are available to the public free of charge.

2.4 Proscription of political parties

2.4.1 According to *BL*, FCC can ban a political party that aims at obstructing or abolishing the system of democracy.¹⁶ FCC banned the Socialist Reich Party in 1952 and the Communist Party in 1956.¹⁷ In early 2001, the German government, the Bundestag, and the Bundesrat filed requests at FCC to initiate proceedings aiming at outlawing the National Democratic Party of Germany, but the case was rejected because of procedural improprieties.¹⁸

2.4.2 Procedures pertaining to cases for the prohibition of parties are prescribed under Articles 42 - 47 of the *Federal Constitutional Court Act*. FCC may institute proceedings for the prohibition of a party only if the Bundestag, the Bundesrat, the federal government or, in the case of a party confined to a single Land, a Land government makes an application to that effect.

2.4.3 Rules for implementing a FCC order that a party is unconstitutional are contained in Section VI of *LPP*. Penalties for continuation of a party which has been declared to be unconstitutional are stipulated in Articles 84 - 86a of the *Criminal Code*.¹⁹

¹⁵ Article 6(3), *LPP*.

¹⁶ Article 21(2), *BL*. It is not uncommon for a state to place restrictions against political parties endangering fundamental freedoms. For details, see The European Commission For Democracy Through Law, "Guidelines on Prohibition and Dissolution of Political Parties and Analogous Measures," adopted by the Venice Commission at its 41st plenary session, 11 December 1999, available at: [http://www.venice.coe.int/docs/2000/CDL-INF\(2000\)001-e.html](http://www.venice.coe.int/docs/2000/CDL-INF(2000)001-e.html).

¹⁷ The federal government asked FCC in 1951 to ban the two parties under the grounds that they breached Article 21 of *BL* by seeking to combat the basic democratic order embodied in the constitution. Both parties were finally dissolved and their property confiscated. For details, see Donald P. Kommers, *The Constitutional Jurisprudence of the Federal Republic of Germany*, 2nd ed., Durham: Duke University Press, 1997, pp. 217-24.

¹⁸ For details, see Thilo Rensmann, "Procedure Fairness in a Militant Democracy: The "Uprising of the Decent" Fails Before the Federal Constitutional Court," *German Law Journal*, Vol. 4, No.11, 2003, pp. 1117-36.

¹⁹ For details, see Jörn Ipsen, "Political Parties and Constitutional Institutions," in Christian Starck, ed., *Studies in German Constitutionalism*, Baden-Baden: Nomos Verl., 1995, pp. 195-243 at pp. 231-41.

2.4.4 The issue of proscription of political parties has been evaluated several times in the light of *ECHR*. In *KPD v. Federal Republic of Germany*, the European Commission of Human Rights²⁰ in 1957 held that an order banning the German Communist Party could be founded on Article 17²¹ of *ECHR* because the programme of the party envisaged a period of dictatorship of the proletariat in which rights under *ECHR* would be destroyed. In recent years, ECtHR has handed down several rulings in relation to the banning of political parties, which has affected the relevant law in Germany.²²

2.5 Rules for party and campaign financing

Regulation of donation

2.5.1 *LPP* affirms that political parties "are entitled to accept donations."²³ There is no restriction on the amount of donations received by political parties. Both individual and corporate donations are legally permissible.

2.5.2 *LPP* places a number of restrictions on political donations. Parties may not accept money from political foundations or parliamentary groups (see paragraph 2.8.1), nor from non-profit organizations or charities. Foreigners may donate at most DM1,000 (HK\$4,900) to a German party, and parties may not accept donations from abroad unless the donor is a German citizen or a company with a majority German ownership. Anonymous donations of more than DM1,000 (HK\$4,900) are not allowed. Parties may not accept donations from donors who are clearly acting on behalf of unnamed third parties, and they must refuse donations that are clearly offered in expectation of some specific economic or political advantages.

²⁰ It was abolished in 1998.

²¹ Article 17 states that:

"Nothing in this Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

²² In the cases of the *United Communist Party of Turkey and Others v. Turkey* (1998) and the *Socialist Party and Others v. Turkey* (1998), ECtHR made a strong endorsement of political pluralism and the role of political parties within it. In contrast, in the case of *Refah Partisi (the Welfare Party) and Others v. Turkey* (2001), ECtHR took the view that it had not been incompatible with Article 11 of *ECHR* to dissolve the political party because the party intended to impose Islamic law by force, which was regarded as incomparable with a pluralistic society. For details, see Mustafa Koçak & Esin Örucü, "Dissolution of Political Parties in the Name of Democracy: Cases from Turkey and the European Court of Human Rights" *European Public Law*, Vol. 9(3), 2003, pp. 399-423 and Iain Cameron, *National Security and the European Convention on Human Rights*, the Hague: Kluwer Law International, 2000, pp. 404-9.

²³ Article 25(1), *LPP*.

2.5.3 Political parties are required to submit an annual public statement of their accounts to the President of the Bundestag. The statement indicates the origins and uses of funds received during the year, and includes a listing of party assets. Disclosure is limited to big donors. All donations to a party or its regional branches of DM20,000 (HK\$98,000) or more must be recorded on the statement along with the donors' names and addresses.

Regulation of campaign finance

2.5.4 There are no restrictions on the amount which a political party can spend during an election campaign.

Funding of political parties

2.5.5 FCC ruled for the first time in 1958 in favour of public financing of parties. Through various major decisions, FCC subsequently elaborated the principles and rules governing the public financing of political parties. *LPP* of 1967 codified many of these rules laid down by FCC over the years.²⁴

2.5.6 Section IV of *LPP* deals with state funding for political parties. Political parties which win at least 0.5 per cent of the party votes in the Bundestag or European Parliament elections or one per cent in state elections are eligible for state funding. A political party which does not present a party list of candidates may also be eligible if it wins at least 10 per cent of the votes in any given constituency.

2.5.7 Levels of funding for political parties are based on the number of votes received, party membership and private contributions. Each year, eligible parties are entitled to DM1.30 (HK\$6.37) for each vote received in the latest Bundestag election, up to a limit of five million votes, and DM1.00 (HK\$4.9) for each vote beyond that limit. The parties are also entitled to DM0.50 (HK\$2.5) for each DM1.0 (HK\$4.9) they receive in membership subscriptions or donations on an annual basis.

2.5.8 There is a limit on the total amount of public funding available to support eligible parties each year. That limit is set at DM245 million (HK\$1,200 million). If the total amount of all the parties' entitlements goes over the limit, the share of each party is proportionately scaled down so as not to exceed the limit.

²⁴ FCC's involvement in the field of party finance has virtually dictated the rules and regulations governing the public funding of political parties. For details, see Kommers (n 17 above), pp. 201-15 and Hans Herbert von Arnim, "Campaign and Party Finance in Germany," in Arther B. Gunlicks, *Campaign and Party Finance in North America and Western Europe*, San Jose: to Excel Press, 2000, pp. 201-18 at p. 127.

2.5.9 FCC has ruled that parties may not be 'predominately' financed by the state, and, in compliance with that ruling, *LPP* requires that a party's public funding may not exceed its total income from membership fees, contributions and other sources.²⁵

2.5.10 Political parties seeking public funding must apply to the President of the Bundestag, who is responsible for determining their eligibility and the level of funding for each party. Public funding is provided by both the federal and state governments. The presidents of the state parliaments are responsible for distributing funds to state party organizations in accordance with the amounts determined by the President of the Bundestag.

2.5.11 There is additional public funding for parliamentary party groups and research foundations directed by major political parties. Besides, the provision of party political broadcasts can also be considered as public support for political parties, which will be discussed in paragraph 2.8.3.

2.5.12 Tax incentives are provided for small personal political donations and party membership dues,²⁶ which are considered as indirect public funding for political parties. Individuals may claim tax deductions for donations to political parties up to a total of DM6,000 (HK\$29,400) for singles and DM12,000 (HK\$58,800) for married couples filing joint returns. No tax benefits are available for corporate donations.

2.6 Regulation of selection of candidates for election

2.6.1 Regulation concerning the nomination of candidates for election is only broadly prescribed in *LPP*. Section III of *LPP* requires that "*the nomination of candidates for election to all levels of government must be by secret ballot. The nomination procedure shall be as prescribed by the election laws and party statutes.*"

2.6.2 Article 21 of the *Federal Electoral Law* provides that there are three ways that a party can nominate a candidate in a constituency election. A party candidate can be selected through an assembly of party members, a special assembly or a general assembly of party representatives.

²⁵ Article 18(5), *LPP*.

²⁶ For details, see Karl-Heinz Nassmacher, "Party Funding in Continental Western Europe" in Reginald Austin & Maja Tjernström, eds., *Funding of Political Parties and Election Campaigns*, Stockholm: IDEA, 2003.

2.6.3 An assembly of party members consists of members of the party who at the time of the assembly meeting are entitled to vote in the election to the Bundestag within their constituencies. A special assembly of party representatives consists of delegates elected by an assembly of party members from their own ranks. A general assembly of party representatives is an assembly appointed in general by an assembly of party members from their own ranks in view of forthcoming elections in accordance with the statutes of the party concerned. In all cases, candidates and delegates must be elected by secret ballot.

2.6.4 Land lists may only be submitted by political parties. The procedures prescribed for the nomination of candidates in a constituency are broadly applicable to the nomination of Land lists. If political parties which have not been continuously represented by at least five representatives in the Bundestag or in a Landtag, each candidate in their Land lists must be signed by at least 1 000 and not more than 2 000 eligible voters.²⁷

2.7 Rules on party operations

2.7.1 Article 21(1) of *BL* requires that political parties' "*internal order must correspond to democratic principles.*" FCC, in its ruling banning the Socialist Reich Party in 1952, explained "*democratic principles*" as "*a party must be structured from the bottom up; that is, members must not be excluded from decision-making processes, and the basic equality of members as well as the freedom to join or to leave [the party] must be guaranteed. It would also contravene democratic principles....either to promise absolute obedience to party leaders or to demand such a promise....*"²⁸

2.7.2 Section II of *LPP* provides a framework for party structures and procedures and for the protection of rights of party members. It also sets out standards which parties have to comply with and implement in their own statutes.

2.7.3 A political party under *LPP* is required to possess a written statute and a written programme. The statute must include provisions concerning²⁹:

- (a) the name of the party;
- (b) the acceptance and resignation of party members;
- (c) the rights and obligations of party members;
- (d) disciplinary procedures against party members and local party organizations;

²⁷ Article 27(1), the *Federal Electoral Law*.

²⁸ 2 BverfGE1, see Kommers (n 17 above), p. 221.

²⁹ Article 6(2), *LPP*.

- (e) the general structure of the party; and
- (f) the composition and powers of the executive committee and other organs of the party.

2.7.4 According to *LPP*, the executive committee of a political party must be elected at least every two years and must be made up of at least three party members.³⁰

2.7.5 Under *LPP*, persons who lose their right to vote or to be elected cannot be members of a party.³¹ Party members can only be expelled from a party when he or she deliberately acts contrary to the party statute or in breach of the principles or good order of the party, thereby causing serious damage to the party.³²

2.8 Other related rules

Parliamentary rules

2.8.1 According to the *Rules of Procedure of the Bundestag*³³, parliamentary groups are required to comprise at least five per cent of Members of the Bundestag. Members of a parliamentary group should belong to the same party or parties which have similar political objectives and do not compete with one another in any of the 16 federal states.

2.8.2 The *Rules of Procedure of the Bundestag* confer certain rights exclusively to parliamentary groups. For instance, only they have the right to introduce bills and table motions; to move amendments to bills on third reading; to request postponement of items of business or of a sitting; to question whether the plenary has a quorum; and to demand a recorded vote, a debate on a matter of topical interest, or the setting up of study commissions or committees of inquiry.³⁴

³⁰ Article 11(1), *LPP*.

³¹ Article 10(1), *LPP*.

³² Article 10(4), *LPP*.

³³ The principle of parliamentary autonomy is protected by Article 40 of *BL*, which provides that the Bundestag "*shall draw up rules of procedure.*"

³⁴ For details, see Thomas Saalfeld, "Bureaucratisation, Coordination and Competition: Parliamentary Party Groups in the German Bundestag," in PaKnut Heidar & Ruud Koole, eds., *Parliamentary Party Groups in European Democracies*, London: Routledge, 2000, pp. 23-38.

Broadcasting rules

2.8.3 Political parties cannot purchase radio or television time on public broadcasting channels to advertise their candidates or positions. Nevertheless, they are provided with free public radio and television time during election campaigns. Bound by the constitutional principle of neutrality³⁵, public broadcasters must allocate time to all parties in proportion to their electoral strength and provide opportunities for rebuttals. Advertising time for parties or candidates may be purchased on private stations. Private television channels are obliged by law to offer appropriate air time at reduced tariffs to all political parties.³⁶

Anti-defection rule

2.8.4 Article 38(1) of *BL* provides that "*Members of the German Bundestag shall be representatives of the whole people, not bound by orders or instructions, and responsible only to their conscience.*" There is no anti-defection rule in Germany.³⁷

³⁵ In Germany, public authorities have to treat all parties equally if they offer support for election campaigns, such as meeting places and broadcasting opportunities. This is the equality of treatment principle, which is provided in Article 5(1) of *LPP*. FCC, in a case dealing with election broadcasts, ruled that all parties had to be treated formally equal but exceptions were allowed if absolutely necessary. See 14 BverfGE 121, in Nigel Foster & Satish Sule, *German Legal System and Laws*, 3rd ed., Oxford: Oxford University Press, 2002, p. 161.

³⁶ Fritz Plasser, *Global Political Campaigning: A Worldwide Analysis of Campaign Professionals and Their Practices*, Westport, Connecticut: Praeger, 2002, p. 223.

³⁷ See Ipsen (n 19 above), p. 199-200.

Chapter 3 - The United Kingdom

3.1 Basic information

3.1.1 The United Kingdom (UK) is a unitary state with a parliamentary system of government. It has a bicameral legislature — the House of Commons and the House of Lords.

3.1.2 The 2001 general election resulted in the House of Commons being made up of 412 Members of the Labour Party, 166 Members of the Conservative Party, 52 Members of the Liberal Democrats, and 29 Members of other minority parties. The total number of Members of Parliament (MPs) is 659.

3.1.3 The UK does not have a constitution set out in any single document. Instead, its constitution is made up of statute law, common law and conventions.

3.2 Regulatory framework

3.2.1 The UK system of parliamentary democracy is based on the party system. Many constitutional arrangements are governed by constitutional conventions³⁸, some of which are related to political parties. For instance, by convention, the Queen must invite the leader of the party or group commanding a majority of the House of Commons to form a government, and senior civil servants are allowed to have pre-election contacts with Opposition leaders on the machinery of government in preparation for a possible change of government.

3.2.2 Political parties in the UK are voluntary associations, subject to the general law.³⁹ Increasingly, however, they are subject to specific legal regulation. The *Political Parties, Elections and Referendums Act 2000 (PPERA)* has established a regulatory system controlling the registration, donations and expenditure of political parties.

3.2.3 The UK ratified *ECHR* in 1951, and the agreement entered into force in September 1953. The *Human Rights Act 1998* gives further effect in the UK law to the rights and freedoms contained in *ECHR*. The UK is also a signatory to *ICCPR*. Under *ECHR*, the *Human Rights Act 1998* and *ICCPR*, certain rights and freedom of association in the UK are specified.

³⁸ For details, see Chau Pak-kwan, "Some Basic Information on Constitutional Conventions," HK: Legislative Council Secretariat, 2002, available at <http://www.legco.gov.hk/yr01-02/english/sec/library/0102in26e.pdf> and Geoffrey Marshall, *Constitutional Conventions: The Rules and Forms of Political Accountability*, Oxford: Clarendon Press, 1986.

³⁹ For instance, the Conservative Party has a special and complex status. See *Conservative and Unionist Central Office v. Burrell* [1982] W.L.R. 522.

3.3 Registration requirements

3.3.1 Prior to the introduction of *PPERA*, under the *Registration of Political Act 1998*, political parties could choose to register on the register of political parties for the UK. Groups that chose not to register were able to field candidates for an election using descriptions of up to six words on a ballot paper.

3.3.2 Under *PPERA*, only candidates standing on behalf of a registered political party are allowed to use a description on a ballot paper at relevant elections, such as general elections, the European Parliament elections, elections for devolved assemblies and most local government elections.

3.3.3 Registration of political parties is not compulsory. There is no legal definition of a political party in the UK, with registration being open to any party that declares its intention of contesting in one or more relevant elections. Political parties must register with the Electoral Commission⁴⁰, which is required to maintain two registers of parties — one for Great Britain, and one for Northern Ireland. A registered party may also register up to three emblems to be used on ballot papers.⁴¹

3.3.4 In order for a group to register as a political party, it has to submit the following information:

- (a) an application form giving details of the party's name and at least two party officers;
- (b) where in the UK the party is to be registered, and whether the party will have any accounting units;
- (c) a copy of the party's constitution;
- (d) a financial scheme showing how the party will comply with the financial controls; and
- (e) a fee of £150 (HK\$2,160).

⁴⁰ The Electoral Commission, established under *PPERA*, comprises not less than five and not more than nine Electoral Commissioners, who are appointed by Her Majesty.

⁴¹ Section 29, *PPERA*.

3.3.5 The Electoral Commission can refuse an application to register if the proposed name of a political party:

- (a) is similar to the name of another registered party and may confuse electors;
- (b) comprises more than six words;
- (c) is obscene or offensive;
- (d) includes words which if published may amount to commission of an offence;
- (e) includes any script other than Roman; or
- (f) includes any words or expression prohibited by order made by the Secretary of State.⁴²

3.3.6 Once a party is registered with the Electoral Commission, it is required to maintain an accurate entry on the register of political parties. Changes to party details must be forwarded to the Commission, and an annual confirmation of details must also be submitted.

3.3.7 To run for an election, groups or individuals that do not register with the Electoral Commission can only describe themselves as independents or have a blank entry against their names on the ballot paper.

3.4 Proscription of political parties

3.4.1 In the UK, there is no rule specifically used to ban political parties. However, there are legal provisions related to the banning of political organizations.⁴³

3.4.2 The *Public Order Act 1936* was enacted amidst the rise of military fascist groups in the early 1930s. Section 2 of the Act applies to the organization, management, training or equipping of political associations whose purposes are either to usurp the functions of the armed forces or police or to display physical force in the promotion of a political object. There have been few prosecutions under the Act.⁴⁴

⁴² Section 28(4), *PPERA*.

⁴³ See Howard Davis, *Human Rights and Civil Liberties*, Devon, UK: Willan Publishing, 2003, pp. 39-40.

⁴⁴ See Howard Davis, *Political Freedom: Associations, Political Purposes and the Law*, London: Continuum, 2000, p. 55.

3.4.3 The *Terrorism Act 2000 (TA)* applies not only to international terrorism, but also to domestic terrorism such as extremist nationalist groups and militant animal rights activists.⁴⁵ Section 3 of *TA* gives powers to the Secretary of State to proscribe terrorist organizations which he or she believes to be "*concerned in*"⁴⁶ terrorism. Section 1 of *TA* defines terrorism as the use or threat of action where:

- (a) the action involves serious violence against any person or property; endangers the life of any person; or creates a serious risk to the health or safety of the public or a section of the public;
- (b) the use or threat is designed to influence the government or to intimidate the public or a section of the public, and
- (c) the use or threat is made for the purpose of advancing a political, religious or ideological cause.

3.4.4 *TA* provides for a process of deproscription, under which a proscribed organization can apply to the Secretary of State to overturn the proscription. If that is turned down, the organization can appeal to the Proscribed Organisations Appeal Commission, which is established under *TA*.⁴⁷

3.4.5 Sections 11 - 13 of *TA* provide a series of offences in respect of proscribed organizations, including an offence to belong to a proscribed organization, an offence to invite support for a proscribed organization, and an offence to wear clothing or display articles that may create an suspicion that he or she is a member or supporter of a proscribed organization.

⁴⁵ The threat was identified in the consultation paper which *TA* was based upon. See *Legislating Against Terrorism: A Consultation Paper*, available at <http://www.archive.official-documents.co.uk/document/cm41/4178/4178.htm>.

⁴⁶ Section 5 of *TA* specifies that an organization is concerned in terrorism if it:
"(a) commits or participates in acts of terrorism,
(b) prepares for terrorism,
(c) promotes or encourages terrorism, or
(d) is otherwise concerned in terrorism."

⁴⁷ Sections 4 -7, *TA*. For details, see Clive Walker, *Blackstone's Guide to the Anti-terrorism Legislation*, Oxford : Oxford University Press, 2002, Chapter 2.

3.5 Rules for party and campaign financing

Regulation of donation

3.5.1 Donations to political parties in the UK are regulated under *PPERA*.⁴⁸ The Electoral Commission is authorized to ensure that political parties, other organizations and individuals comply with donation controls, and to publish a register of those making political donations.

3.5.2 Under *PPERA*, donations of more than £200 (HK\$2,820) made to a registered political party⁴⁹ can only be accepted if they are from permissible donors.⁵⁰ Donations of less than £200 (HK\$2,820) are not regulated under *PPERA*. There is no cap on the amount that can be accepted as a donation by a registered party.

3.5.3 Any party receiving donations from anonymous or impermissible sources must either return them, or surrender them to the Consolidated Fund.⁵¹ Overseas donations are prohibited. Donors to political parties are not entitled to any tax relief.

3.5.4 Political parties are required to submit a quarterly donation report to the Electoral Commission, listing donations of more than £5,000 (HK\$70,500), as a lump sum or in sums of smaller amounts from the same source, accepted by the party's headquarters. Parties must also report donations of more than £1,000 (HK\$14,100), as a lump sum or in sums of smaller amounts from the same source, accepted by branches of the party.

3.5.5 In a general election period, parties contesting the election must report at weekly rather than quarterly intervals for donations over £5,000 (HK\$70,500). This applies to donations that have been received and no matter whether or not they are accepted. If no such donations have been made, the weekly reports have to state that.

⁴⁸ Part IV, *PPERA*.

⁴⁹ This applies to all political parties registered on the UK register of parties, excluding parties registered as minor parties, i.e. parties which are registered only to contest parish and community elections. Parties on the Northern Ireland register are currently exempt from the donation restrictions set out in *PPEPA*.

⁵⁰ A permissible donor is defined by *PPERA* as: (a) an individual registered on a UK electoral register; (b) a UK registered political party; (c) a UK registered company; (d) a UK registered trade union; (e) a UK registered building society; (f) a UK registered limited liability partnership; (g) a UK registered friendly, industrial or provident society; or (f) a UK-based unincorporated association.

⁵¹ The general fund into which almost all government receipts are paid and out of which almost all government expenditure is met.

3.5.6 In addition, any donations received but not accepted from impermissible or unidentifiable sources must be reported. To comply with the reporting requirements, political parties have to keep records of all donations above £200 (HK\$2,820) which have been received and accepted.

3.5.7 The Electoral Commission maintains a register of party political donations, which is updated four times a year. The register can be viewed on the Commission's website.⁵²

Regulation of campaign finance

3.5.8 *PPERA* lays down limits controlling campaign expenditure incurred by registered political parties.⁵³ The aim of the rules is to avoid escalating campaign spending by major parties. Spending by individual candidates is regulated separately by the *Representation of the People Act 1983*.

3.5.9 Under *PPERA*, party campaign expenditure is regulated at elections of the UK and European Parliaments, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

3.5.10 *PPERA* specifies various categories of campaign expenditure that may be incurred by parties. These categories include direct expenditure such as party political broadcasts, advertisements, unsolicited materials distributed to electors, party manifestos, market research, transportation and rallies, and expenditure on benefits in kind.

3.5.11 Under *PPERA*, there are limits on the amount of party campaign expenditure that can be incurred in elections during relevant periods. These limits are dependent on the number of seats that a party contests in the relevant part of the UK. There is a constituency expenditure limit and a per region expenditure limit. For a general election, the relevant period is the 365 days ending with the date of the poll. The expenditure limit is £30,000 (HK\$423,000) multiplied by the number of constituencies being contested, or £810,000 (HK\$11.4 million) in England, £120,000 (HK\$1.7 million) in Scotland, and £60,000 (HK\$846,000) in Wales, depending on which sum is larger.

3.5.12 Following an election, political parties are required to submit a return to the Electoral Commission detailing all the campaign expenditure incurred by them. The return must list individual items of expenditure, and give a breakdown of total expenditure incurred by reporting category and in each part of the UK. This information is published on the Commission's website.

⁵² <http://www.electoralcommission.gov.uk>.

⁵³ Part V, *PPERA*.

3.5.13 Campaign expenditure returns must be submitted within three months of the election, if the party has incurred expenditure of £250,000 (HK\$3,525,000) or less, or within six months of the election, if more than £250,000 (HK\$3,525,000) has been spent. Parties that have spent more than £250,000 (HK\$3,525,000) must submit a statement from an independent auditor with their returns. It is an offence [punishable by a maximum fine of £5,000 (HK\$70,500)] for a party that contested an election to fail to submit a campaign expenditure return.

Funding of political parties

3.5.14 The funding of political parties has been a constant source of controversy.⁵⁴ In the UK, there is no provision of direct public funding for political parties on election campaigns.⁵⁵ However, opposition parties receive public money for their parliamentary work.

3.5.15 Financial assistance to opposition parties in the House of Commons is commonly known as "Short Money." The primary intention behind the funding is to create a more level playing field so that opposition parties come closer to matching the resources available to the government.⁵⁶ Similar party funding arrangements are in place in the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly.

3.5.16 In 2003-04, Short Money allocations total some £5 million (HK\$70.5 million). The current scheme is administered under a Resolution of the House in 1999. The scheme has three components:

- (a) General funding to assist opposition parties in carrying out their parliamentary business;
- (b) Funding for opposition parties' travel and associated expenses; and
- (c) Funding for the running costs of the Leader of the Opposition's Office.

⁵⁴ During the past 30 years, there were at least six major reviews dealing with the funding of political parties. The Electoral Commission in May 2003 published an issue paper with a background paper to seek public comments on the funding of political parties. For details, see The Electoral Commission, *The Funding of Political Parties*, May 2003, which is available at <http://www.electoralcommission.gov.uk/templates/search/document.cfm/7955>.

⁵⁵ Except those mentioned in paragraph 3.5.21.

⁵⁶ Chris Sear, "Short Money," House of Commons Standard Note Paper SN/PC/1663, 23 January 2004, available at <http://www.parliament.uk/commons/lib/research/notes/snpc-01663.pdf>.

3.5.17 In addition, the Leader of the Opposition, the Opposition Chief Whip and the Assistant Opposition Whip in the House of Commons all receive a salary from public funds, on top of their parliamentary salary. The 2003-04 levels are £65,482 (HK\$923,296), £37,055 (HK\$522,476) and £23,847 (HK\$336,243) respectively.

3.5.18 A similar financial assistance scheme, known as "Cranborne Money", operates in the House of Lords, and is paid to the two largest opposition parties. In 2003-04, Cranborne Money totals £639,792 (HK\$9 million).⁵⁷ The salaries of the Leader of the Opposition and the Opposition Chief Whip in the House of Lords are also paid from public funds, which in 2002-03 were £65,936 (HK\$929,698) and £60,972 (HK\$859,705) respectively.

3.5.19 Section 12 of *PPERA* establishes a policy development grants scheme to assist political parties with the development of policies for inclusion in their manifestos for parliamentary elections, including elections to the European Parliament, the Scottish Parliament, the National Assembly for Wales, and the Northern Ireland Assembly, as well as local government elections and local elections in Northern Ireland. The first grants were paid out in 2002.

3.5.20 The policy development grants scheme is administered by the Electoral Commission. The fund was introduced through the *Elections (Policy Developments Grants Scheme) Order 2002*, which prescribed a total amount of £2 million (HK\$28 million) per annum, to be split amongst parties with two or more MPs.

3.5.21 There are other public support for political parties, including free party election broadcasts, free postage and distribution of election communication and free use of public buildings during elections.⁵⁸ Details concerning party political broadcasts will be discussed in paragraphs 3.8.3-3.8.7.

3.6 Regulation of selection of candidates for election

3.6.1 Selection of candidates for an election is basically a party business in the UK.⁵⁹ Cases arise from time to time regarding individuals challenging the procedures for the selection of a party's candidates for election to public office.⁶⁰

⁵⁷ see Sear (n56 above).

⁵⁸ See The Electoral Commission (n 54 above), pp. 15-7.

⁵⁹ For a detailed discussion of a variety of selection methods used by political parties in the UK, see The Independent Commission on PR [proportional representation], "Report on Candidate Selection," 2002, available at http://www.prcommission.org/files/14_november_2002/6_candidate_selection.pdf.

⁶⁰ See *Weir v. Hermon* [2001] NIJB 260 and *Mortimer v. Labour Party, The Independent*, 28 February 2000.

3.6.2 The *Sex Discrimination (Election Candidates) Act* was passed in 2002.⁶¹ The Act enables political parties, if they wish, to adopt positive measures to reduce inequality in the number of men and women selected as candidates of their party. The legislation covers elections to the House of Commons, the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, the European Parliament and local government elections.

3.7 Rules on party operations

3.7.1 Under *PPERA*, a registered party must have a leader, a nominating officer and a treasurer, and it may have a campaign officer.⁶² All registered parties are also required to prepare and publish financial accounts in a format specified in the statement of accounts determined by the Electoral Commission.⁶³

3.8 Other related rules

Parliamentary rules

3.8.1 Parliamentary procedures in the UK come from various sources, including practice, standing orders, rulings from the Speaker or Chairman of Committees and acts of Parliament.

3.8.2 The UK parliamentary system is organized around the representation of political parties. Political parties have been an integral part in many aspects of parliamentary practice. Many parliamentary businesses are decided through 'the usual channels', which are a series of meetings and discussions between the Leader of the House, the Chief Whip and their opposition counterparts. By convention, the party membership of the House is reflected in the composition of parliamentary committees. In addition, opposition parties have certain rights under the standing orders and by convention.⁶⁴

⁶¹ The Labour Party introduced all-women short lists on selected constituencies in 1993, which was held to be unlawful discrimination in employment-related decisions by an industrial tribunal in *Jepson and Dyas-Elliott v. Labour Party* [1996] IRLR 116, ET. The Act was used to reverse the *Jepson* decision. For a detailed discussion, see Nicole Busby, "Sex Equality in Political Candidature: Supply and Demand Factors and the Role of the Law," *The Modern Law Review*, Vol. 66, 2003, pp. 245-60.

⁶² Sections 24 & 25, *PPERA*.

⁶³ For details, see <http://www.electoralcommission.gov.uk/regulatory-issues/legsoapolparty.cfm>.

⁶⁴ For details, see Chau Pak-kwan, *The Relationship between the Government and the Opposition or Minority Parties in Selected Places*, HK: Legislative Council Secretariat, 2002, Chapter 2 (available at <http://www.legco.gov.hk/yr02-03/english/sec/library/0203rp01e.pdf>) and Rodney Brazier, *Constitutional Practice: the Foundations of British Government: The Foundations of British Government*, 3rd ed., Oxford: Oxford University Press, 1999, chapter 8.

Broadcasting rules

3.8.3 In the UK, the purchase of media air time for political advertising is prohibited. The *Broadcasting Act 1990* specifies that "any body whose objects are wholly or mainly of a political nature" is not permitted to advertise on radio or television.

3.8.4 The *Broadcasting Act 1990* requires certain commercial broadcasters (holders of channels 3, 4 and 5 television licenses and holders of national radio licenses) to include party political broadcasting in their services, in accordance with rules determined by the Independent Television Commission (ITC) and the Radio Authority.⁶⁵ ITC and the Radio Authority may determine "(a) the political parties on whose behalf party political broadcasts may be made; and (b)... the length and frequency of such broadcasts."⁶⁶

3.8.5 Section 11 of *PPERA* requires both ITC and the Radio Authority to have regard to any views expressed by the Electoral Commission before making any rules relating to party political broadcasting. The precise allocation rules are included in the programme codes of ITC and the Radio Authority.⁶⁷

3.8.6 The British Broadcasting Corporation (BBC) is under no legal obligation to offer party or election broadcasts. However, BBC, by convention, provides air time free of charge to qualifying parties at the time of elections and at other key events in the political calendar⁶⁸. Section 11(3) of *PPERA* also requires that BBC has regard to any views expressed by the Electoral Commission before making any rules relating to party political broadcasting.

3.8.7 A liaison group is established by the various broadcasting authorities as a forum for deciding the allocation arrangements for party election broadcasts. Under the current arrangement, any party fielding candidates in one-sixth of the contested seats at an election qualifies for a party election broadcast. Only parties registered with the Electoral Commission are permitted to make a political broadcast.⁶⁹

⁶⁵ Section 36(1), the *Broadcasting Act 1990*.

⁶⁶ Sections 36(3) & 107, the *Broadcasting Act 1990*.

⁶⁷ For details, see The Electoral Commission, *Party Political Broadcasting: Report and Recommendations*, January 2003, p. 20.

⁶⁸ Such as the Queen's Speech, the Budget and party conferences.

⁶⁹ Section 37, *PPERA*.

Connection with other organizations

3.8.8 Trade unions can only support political parties on the basis of a regular ballot of members and exclusively with money from a political fund held separately from the general funds of the trade unions. Members of trade unions should have a choice not to contribute to the political fund.⁷⁰

3.8.9 Under *PPERA*, commercial companies are required to seek shareholder consent and disclose their donations to political parties. Charitable organizations are prohibited from having political purposes or supporting political parties.⁷¹

Anti-defection rule

3.8.10 There is no anti-defection rule in the UK.

⁷⁰ *The Trade Union and Labour Relations (Consolidation) Act 1992*, part I, Chapter VI.

⁷¹ See Davis (n 44 above), chapter 4.

Chapter 4 - New Zealand

4.1 Basic information

4.1.1 New Zealand is a unitary state with a parliamentary system of government. It has a unicameral legislature — the House of Representatives. New Zealand is part of the Commonwealth, and the Queen, who is the head of the state, is represented by the Governor-General. The Governor-General is appointed by the Queen on the advice of the New Zealand government, usually for a term of five years.

4.1.2 Parliament comprises 120 Members of Parliament (MPs), who are elected through the mixed member proportional representation electoral system (MMP). Under MMP, each voter has two votes — one for a Member to represent an electorate and the other for a party which the voter prefers.

4.1.3 Following the general election in 2002, the House of Representatives currently comprises 52 MPs from the Labour Party (the main Government party), 27 MPs from the National Party (the main Opposition party), 13 MPs from New Zealand First; nine MPs from ACT, nine MPs from the Green Party, eight MPs from the United Future New Zealand Party (agrees to support the government on crucial money supply and confidence votes) and two MPs from the Progressive Coalition (a junior party in the coalition government).

4.1.4 New Zealand does not have a single written constitution. New Zealand's constitutional arrangements can be found in a number of key documents, including the *Constitution Act 1986*, the *New Zealand Bill Of Rights Act 1990 (NZBRA)*, the *Electoral Act 1993*, the *Treaty of Waitangi* and the *Standing Orders of the House of Representatives*. These documents, together with New Zealand's constitutional conventions, form the nation's constitution.

4.2 Regulatory framework

4.2.1 Although *NZBRA* remains an ordinary statute, it is developing into a potent constitutional document. *NZBRA* provides safeguards for the civil and political rights in New Zealand and affirms New Zealand's commitment to *ICCPR*⁷². New Zealand is a signatory to *ICCPR*. Section 17 of *NZBRA* guarantees that everyone has the right to freedom of association in New Zealand.

⁷² The long title of *NZBRA* states that it is an Act to affirm New Zealand's commitment to *ICCPR*. For details, see Paul Rishworth *et al.*, *The New Zealand Bill of Rights*, Oxford: Oxford University Press, 2003.

4.2.2 Similar to the situation in the UK, many constitutional arrangements in New Zealand are governed by constitutional conventions. Some of the conventions are laid down in the *Cabinet Manual*⁷³, with the following particularly relating to political parties:

- (a) the office of the Governor-General is apolitical. The Governor-General should avoid becoming overtly involved in the 'party politics' of the government;
- (b) the Governor-General appoints the leader of the party or group of parties that has the support of the House of Representatives as the Prime Minister;
- (c) inter-party negotiations to form a government are the business of politicians, but negotiating parties may seek access to the public service or agencies in the wider state sector for information and analysis on issues that may form part of a coalition agreement; and
- (d) draft bills are referred to the government caucus⁷⁴ before being introduced into the House to ensure that they have adequate support to progress.

4.2.3 Prior to the introduction of the proportional representation electoral system in 1996, political parties had essentially been invisible in statute law. New Zealand does not have separate legislation for political parties. It mainly uses its electoral law to govern the registration, donation and campaign expenditure of political parties.

⁷³ Cabinet Office, *Cabinet Manual 2001*, Wellington: New Zealand, 2001, available at <http://www.dpmc.govt.nz/cabinet/manual/table.html>. For an analysis, see Elizabeth McLeay, "What is the Constitutional Status of the New Zealand Cabinet Office Manual?" *Public Law Review*, 10(1), 1999, pp. 11-6.

⁷⁴ A party caucus is the full group of all MPs belonging to a particular party.

4.3 Registration requirements

4.3.1 In New Zealand, the establishment of a political party does not require special registration. There is also no legal definition of a political party.

4.3.2 Political parties are required to register in order to be eligible for participating in the party vote (see paragraph 4.1.2). A party must be registered by the Electoral Commission⁷⁵ before a general election to be entitled to submit a party list at the election and thus appear on the party vote. Nonetheless, a party does not have to be registered in order to contest electorate seats at a general election or by-election.⁷⁶ Part IV of the *Electoral Act 1993* provides for the Electoral Commission to register political parties and to register party logos to appear on ballot papers.

4.3.3 The main criteria for registration are that a party must have at least 500 'current financial members'⁷⁷ who are eligible to enrol as electors⁷⁸, and that the party's name or abbreviation must not be likely "*to cause confusion or mislead electors*".

4.3.4 Each application for registration must be accompanied by evidence that the party meets the membership requirement for registration and by the name and address of a person who is to be the party's auditor. The applicant must also provide a statutory declaration stating the names of any 'component parties', i.e. parties that are members of the applicant party or that have combined their memberships to form the party applying for registration.⁷⁹

⁷⁵ The Electoral Commission is an independent Crown entity established under the *Electoral Act 1993*, usually consisting of four Commissioners. The President of the Commission, who must be a serving or retired judge of the District Court, High Court or Court of Appeal, is appointed by the Governor-General for up to five years. The second Commissioner, the Commission's Chief Executive, is also appointed by the Governor-General for up to five years. The Secretary for Justice and the Chief Judge of the Maori Land Court are Commissioners *ex officio*.

⁷⁶ For details, see The Electoral Commission, *Guide to Registration of Political Parties and Party Logos*, available at: <http://www.elections.org.nz/esyst/PartyRegistration.pdf>.

⁷⁷ Under the *Electoral Act 1993*, a 'current financial member', in relation to a political party, means a member of the party —

- "(a) whose membership of the party resulted from an application made by the member to join the party; and
- (b) who is, under the party's rules, subject to an obligation to pay to the party a membership fee —
 - (i) on becoming a member; and
 - (ii) then at specified intervals of not more than 3 years; and
- (c) who has paid to the party every membership fee that has for the time being become payable by the member in accordance with those rules."

⁷⁸ A person is qualified to enrol if he or she:

- (a) is 18 years of age or older,
- (b) is a New Zealand citizen or permanent resident, and
- (c) has lived in New Zealand for one year or more without leaving the country.

⁷⁹ Section 63, the *Electoral Act 1993*.

4.3.5 By 30 April each year, the secretary of a registered party must provide the Electoral Commission with a statutory declaration that the party intends to contest elections and has at least 500 current financial members eligible to enrol as electors. However, registered parties are not required to contest elections in order to retain their registration. Parties remain registered so long as they continue to meet the statutory requirements for registration and their registration has not been cancelled.

4.3.6 Any registered or unregistered political party may apply to the Electoral Commission to register a logo for use on ballot papers for general elections and by-elections. An application to register a logo must be accompanied by a statutory declaration that the use of the logo by the party will not be an infringement of any intellectual property right or a breach of any enactment. The other main criteria for registration are that the logo must not be likely "to cause confusion or mislead electors" and must not be indecent or offensive.

4.3.7 The Electoral Commission is required to maintain a Register of Political Parties containing the name, abbreviation, component parties and date of registration of each registered party, and its logo (if any). The Register is available for public inspection.

4.4 Proscription of political parties

4.4.1 In New Zealand, there is no rule specifically used to ban political parties. However, there are legal provisions related to the banning of political organizations.

4.4.2 The *Terrorism Suppression Act 2002 (TSA)* provides powers to the Prime Minister to designate an entity as a terrorist entity and this designation makes any dealing with the property or finances of that entity an offence. Recruiting or participating in a terrorist entity carries a penalty of up to 14 years' imprisonment.

4.4.3 Under Section 5 of *TSA*, an act is classified as a terrorist act if it is carried out for the purpose of advancing an ideological, political, or religious cause with the intention of leading to certain outcomes. These outcomes include endangering human life, making major economic loss or environmental risk or causing serious disruption to an infrastructure.⁸⁰

⁸⁰ Any act of protest, advocacy, dissent, strike or lockout is excluded from the definition of a terrorist act unless it meets certain conditions. Section 5(5), *TSA*.

4.4.4 The Prime Minister, after consultation with the Attorney-General and the Minister of Foreign Affairs and Trade, may make an interim designation if there is good cause to suspect that an organization or group has committed terrorist acts or is an associated entity. The interim designation expires after 30 days. The Prime Minister can make a final designation if he or she has reasonable grounds to believe that an entity is a terrorist entity or an associated entity. This designation expires after three years unless earlier confirmed by the High Court or revoked.⁸¹

4.4.5 The designated entity can at any time seek to overturn the designation. The entity can also apply in the normal way for judicial review of the designation or the bringing of other court proceedings in relation to the designation.

4.5 Rules for party and campaign financing

Regulation of donation

4.5.1 Regulations governing donations to political parties in New Zealand are laid down in the *Electoral Act 1993* and its series of amendments. One of the functions of the Electoral Commission is to ensure that political parties comply with donation reporting requirements.

4.5.2 Political parties are legally allowed to accept donations from known persons or anonymous sources. The meaning of "person" includes a corporation sole, a body corporate and an unincorporated body.

4.5.3 In New Zealand, there is no prohibition on foreign donations to political parties.⁸² There is also no upper limit on the amount of donation that can be accepted by a registered political party. Donors to political parties are not entitled to any tax relief.

4.5.4 Under the *Electoral Act 1993*, every registered party is required to appoint an auditor.⁸³ Before 30 April each year, the secretary of each registered party must provide the Electoral Commission with an accurate audited return showing the name and address of every person or body of persons who made one or more donations to the party totalling more than NZ\$10,000 (HK\$50,000) during the previous calendar year. Each anonymous donation in excess of NZ\$10,000 (HK\$50,000) must also be listed in the return. There is no requirement for an unregistered party to provide a return of donations.

⁸¹ Sections 22 & 23, *TSA*.

⁸² According to the Electoral Commission, many New Zealand citizens and permanent residents living overseas are entitled to vote and may wish to donate to a party. In any event, there have not been many instances of parties receiving disclosable donations from overseas.

⁸³ Section 214D(1), the *Electoral Act 1993*.

4.5.5 Registered parties have legal obligations to file a nil return and to retain records necessary to verify a return. The Electoral Commission must make the returns of party donations and auditors' reports available for public inspection.⁸⁴

Regulation of campaign finance

4.5.6 A registered political party is limited in the amount it may spend on election activities to promote the party or its list in the three months before the day of a general election. The total amount that a registered party may spend is NZ\$1 million (HK\$5 million) if the party nominates a party list, plus NZ\$20,000 (HK\$100,000) for each electorate contested by a candidate for that party.

4.5.7 The limit excludes spending by electorate candidates on their personal campaigns, the party's broadcasting allocation (see paragraph 4.8.7) and the costs of travel, surveys and opinion polls, donated labour, and the replacement of damaged or vandalized election materials.

4.5.8 Within 50 working days after the declaration of the election of list candidates, the secretary of each registered party must provide the Electoral Commission with a return of election expenses and with an auditor's report on that return. These returns and audit reports are open to public inspection.

4.5.9 Apart from election broadcasting, there is no limit to the total amount an unregistered party may spend on its election campaign, and unregistered parties are not required to submit a return of election expenses.

Funding of political parties

4.5.10 Public funding is available for political parties to perform their parliamentary duties. The level of funding for each party is determined by the number of seats it holds in Parliament.⁸⁵ All parliamentary parties have budget allocations to cover the costs of:

- (a) each leader's office;
- (b) research;
- (c) media relations; and
- (d) co-ordinating the work of the party's MPs in Parliament.

⁸⁴ See <http://www.elections.org.nz/elections/esyst/parties.html>.

⁸⁵ For details, see Chau (n 64 above), chapter 3.

4.5.11 The Leader of the Opposition and other party leaders and deputy leaders are remunerated at levels higher than MPs holding no office. The payment level is based upon a parliamentary salaries and allowances determination made by the Remuneration Authority (a statutory body).

4.5.12 Political parties are provided with free or discounted election broadcasting time and public funds to meet the costs of broadcasting of election programmes. Details will be discussed in paragraphs 4.8.4- 4.8.8.

4.6 Regulation of selection of candidates for election

4.6.1 Section 71 of the *Electoral Act 1993* requires that registered parties follow democratic procedures in candidate selection.⁸⁶ Every registered party is obliged to comply with this requirement, although compliance is not a criterion for registration.

4.6.2 The candidate selection rules of each registered party (and any changes to these rules) must be deposited with the Electoral Commission, which must make these rules available for public inspection.

4.6.3 Section 12(b) of *NZBRA* provides that "[e]very New Zealand citizen who is of or over the age of 18 years.... is qualified for membership of the House of Representatives." In *Peters v. Collinge*,⁸⁷ the High Court considered that the right to stand for Parliament was fundamental and non-derogable. Therefore, the High Court ruled that a contract between a potential candidate and a party which purported to preclude the potential candidate from standing for Parliament if he or she was not selected as a party candidate was contrary to the public policy and illegal.

4.7 Rules on party operations

4.7.1 The membership rules (and any changes to the rules) of each registered party must be deposited with the Electoral Commission, which must make these rules available for public inspection.

⁸⁶ Section 71 provides that:

"Every political party that is for the time being registered under this Part of this Act shall ensure that provision is made for participation in the selection of candidates representing the party for election as members of Parliament by—

(a) current financial members of the party who are or would be entitled to vote for those candidates at any election; or
 (b) delegates who have (whether directly or indirectly) in turn been elected or otherwise selected by current financial members of the party; or
 (c) a combination of the persons or classes of persons referred to in paragraphs (a) and (b) of this section."

⁸⁷ [1993] 2 NZLR 554, HC.

4.7.2 Section 71A of the *Electoral Act 1993* requires the secretary of each registered party to provide the Electoral Commission with a statutory declaration by 30 April each year which must —

- (a) state that the party intends, at general elections,
 - (i) to submit a list of party candidates; or
 - (ii) to have one or more constituency candidates stand for the party or for a related political party; or
 - (iii) both; and
- (b) state whether the party has at least 500 current financial members who are eligible to enrol as electors.

4.8 Other related rules

Parliamentary rules

4.8.1 *The Standing Orders of the House of Representatives*⁸⁸ (*SOHR*) give formal recognition to political parties. A party is entitled to be recognized as a parliamentary political party if one of its members was elected at the preceding general election or at any subsequent by-election.⁸⁹

4.8.2 There may be one or more parties represented in the House of Representatives which are not in the government. The largest non-government party is known as the Opposition party. The Leader of the Opposition is also recognized in *SOHR*.⁹⁰

4.8.3 In addition, *SOHR* requires that the allocation of speaking rights of MPs and the composition of select committees should reflect the party membership of the House.⁹¹

Broadcasting rules

4.8.4 New Zealand places extensive restrictions on the use of the broadcasting media for election related advertising. All broadcasting media in New Zealand, whether privately owned or state run, are regulated by the *Broadcasting Act 1989*.

⁸⁸ *New Zealand Standing Orders 1999: Standing Orders of the House of Representatives*, available at <http://www.clerk.parliament.govt.nz/publications/StOrders.pdf>.

⁸⁹ *SOHR* 34(1).

⁹⁰ *SOHR* 36.

⁹¹ *SOHR* 187(1) & 103.

4.8.5 Part VI of the *Broadcasting Act 1989* contains most of the legal provisions about broadcasting of election programmes, while some provisions of the *Electoral Act 1993* also affect election broadcasting.

4.8.6 The *Broadcasting Act 1989* provides for the Electoral Commission to allocate time and money to political parties for broadcasting at general elections. In carrying out this function, the Commission has two additional members: one from each of the government and the opposition parties.

4.8.7 The Electoral Commission provides two ways for qualifying political parties to access the broadcasting media during an election. First, the Commission allocates air free or discounted time provided by broadcasters to political parties. Second, the Commission allocates money appropriated by Parliament to political parties to enable parties to broadcast election programmes (the appropriation has been NZ\$2 million [HK\$10 million] since the allocation system began in 1990).

4.8.8 In order to be eligible for an allocation, a political party must be registered, or be deemed to have nominated at least five electorate candidates, at least three months before the dissolution of Parliament for a general election. In allocating air time and money, the Electoral Commission must have regard to a number of criteria, including a party's number of MPs at the previous election, the number of party members, and its opinion poll ratings.⁹² It is illegal for parties to purchase additional broadcasting time during the election period or at any other time.⁹³

Anti-defection rule

4.8.9 On 22 November 2001, the *Electoral (Integrity) Amendment Act 2001* came into force. The purpose of the Act is to maintain and enhance public confidence in the integrity of the electoral system and to enhance the maintenance of the proportionality of political party representation in Parliament as determined by electors. The Act stipulates that any MP resigns or is expelled from his or her parliamentary party is required to vacate his or her seat in Parliament.

4.8.10 An MP can be expelled from a party only if the parliamentary leader of that party delivers a written notice to that effect to the Speaker of the House of Representatives and only on the grounds that he or she has acted in a way that has "*distorted the proportionality of political party representation in Parliament*". The leader must give the MP 21 working days' notice of intention to take action and the decision to expel the MP must be supported by at least two-thirds of the parliamentary members of that party.⁹⁴

⁹² Section 75(2), the *Broadcasting Act 1989*.

⁹³ For a detailed discussion, see Andrew Geddis, "Reforming New Zealand's Election Broadcasting Regime," *Public Law Review*, Vol. 14, 2003, pp. 164-82.

⁹⁴ For a discussion on the effectiveness of the Act, see Philip A Joseph, "Review: Constitutional Law," *New Zealand Law Review*, 2003, part III.

Chapter 5 - Singapore

5.1 Basic information

5.1.1 In Singapore, the Head of State is the President, who is elected for a term of six years. The President appoints the Prime Minister and the other Cabinet members from among the Members of Parliament (MPs).

5.1.2 Singapore has a unicameral Parliament which is elected by direct universal suffrage for a five-year term, unless dissolved earlier. Parliament comprises three categories of members: elected MPs, Non-Constituency MPs⁹⁵ and Nominated MPs⁹⁶. Elected MPs run for elections in either Single-Member Constituencies or Group Representation Constituencies.⁹⁷

5.1.3 The present Parliament, constituted by the general election held on 3 November 2001, consists of 84 elected MPs, one Non-Constituency MP and nine Nominated MPs. Among the elected MPs, 82 Members are from the People's Action Party, one Member from the Workers' Party and one Member from the Singapore Democratic Alliance.

5.1.4 Singapore was proclaimed an independent state in 1965. The Constitution was originally contained in three separate documents. In 1979, a reprint of the Constitution was published, with all the provisions of the Constitution incorporated in one single composite document.

⁹⁵ The category of Non-Constituency MPs is created to ensure that Parliament is represented by some Members from the political parties not forming the government. A provision is made for the appointment of three (or up to a maximum of six) Non-Constituency MPs. The number of Non-Constituency MPs is reduced by one for each opposition party candidate returned in the general election.

⁹⁶ The category of Nominated MPs is created to reflect independent and non-partisan views. They are appointed by the President for a term of two and a half years on the recommendation of a Special Select Committee of Parliament.

⁹⁷ For detailed information, see Chau Pak-kwan, *Systems of Government in Some Foreign Countries: Singapore*, HK: Legislative Council Secretariat, April 2000, available at <http://www.legco.gov.hk/yr99-00/english/sec/library/990rp03.pdf>.

5.2 Regulatory framework

5.2.1 The *Singapore Constitution* provides for the right to form associations for all citizens but permits Parliament to impose restrictions that "*it considers necessary or expedient*" in the interest of security, public order or morality. Restrictions on the right to form associations may also be imposed by any law relating to labour or education.⁹⁸

5.2.2 In Singapore, there is no specific legislation regulating political parties. Different aspects of political parties are regulated by various pieces of legislation, including the *Societies Act (SA)*, relevant election laws⁹⁹, a political donations law and broadcasting laws. Unlike the other three jurisdictions under study, Singapore has not ratified *ICCPR*.

5.3 Registration requirements

5.3.1 In Singapore, *SA* is used to regulate the registration of societies. The requirement for the registration and regulation of societies was first introduced in 1889. The legislation was originally targeted at secret societies.¹⁰⁰ In 1966, the new *SA* (which is the present form) was enacted with amendments to deal with the registration of political associations.

5.3.2 'Societies' under *SA* include most clubs, companies, partnerships or associations of 10 or more persons. *SA* provides that "*every society, not being a registered society, shall be deemed to be an unlawful society.*"¹⁰¹ There are penalties ranging from imprisonment to fines for organizers and members of an illegal society.

5.3.3 Under *SA*, the term 'political association' is used, which includes any society which the President may by order declare to be a political association. There is no definition of both the terms of 'political association' and 'political party' in *SA*. According to the *Parliamentary Elections Act*, a political party is defined as a political party which is registered under *SA*.

⁹⁸ Articles 14(1)(c), 14(2)(c) & 14(3), the *Singapore Constitution*.

⁹⁹ The major legislation governing the presidential and parliamentary elections are (1) the *Constitution of the Republic of Singapore*; (2) the *Presidential Elections Act*; (3) the *Parliamentary Elections Act*; and (4) the *Political Donations Acts 2001*.

¹⁰⁰ See Andrew Phang Boon Leong, *The Development of Singapore Law*, Singapore: Butterworths, 1990, Chapter 4(III).

¹⁰¹ Section 14(1), *SA*.

5.3.4 SA is administered by the Registrar of Societies (a ministerial appointee) under the Ministry of Home Affairs. A society's registration may be refused if it is found that "*the society is likely for the purposes prejudicial to public peace, welfare or good order in Singapore*" or "*it would be contrary to the national interest for the society to be registered.*"¹⁰²

5.3.5 The Registrar of Societies may also refuse a political association from registration if he is satisfied that the rules of the political association do not provide for its membership to be confined to citizens of Singapore or it has affiliation or connection with any organization outside Singapore that is considered by the Registrar to be contrary to the national interest.¹⁰³

5.3.6 Any person aggrieved by the decision of the Registrar to refuse his or her application for registration may, within 30 days, appeal to a Minister whose decision shall be final.¹⁰⁴

5.4 Proscription of political parties

5.4.1 Under section 24 of SA, a Minister may order dissolution of a political association, whenever it appears to the Minister that the political association does not take appropriate actions to rectify the situation that the rules of the political association do not provide its membership to be confined to Singapore citizens or the political association has an affiliation or connection with any foreign organization that is considered to be contrary to the national interest.¹⁰⁵

5.4.2 Section 5 of the *Internal Security Act (ISA)*¹⁰⁶ provides that if the members or adherents of any association of persons, whether incorporated or not, are organized or trained or equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political or other object, or in such a manner as to arouse reasonable apprehension that they are organized or trained or equipped for that purpose, then any member or adherent of such association shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$2,000 (HK\$9,200) or to imprisonment for a term not exceeding one year or to both.

¹⁰² Sections 4(2)(b) &(d), SA.

¹⁰³ Section 4(2)(e), SA.

¹⁰⁴ Section 4(4), SA. In the past ten years, there has not been any case of a political society being refused registration. Information provided by the Ministry of Home Affairs.

¹⁰⁵ In the past ten years, there has not been any case of a political society being dissolved by a Minister's order. Information provided by the Ministry of Home Affairs.

¹⁰⁶ ISA was originally a Malaysian legislation. It has continued in force after Singapore became an independent state.

5.4.3 *ISA* also provides that any person who takes part in the control or management of the association, or in so organizing or training as aforesaid in paragraph 5.4.2 any member or adherent thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$10,000 (HK\$46,000) or to imprisonment for a term not exceeding five years or to both.

5.5 Rules for party and campaign financing

Regulation of donation

5.5.1 The *Political Donations Act 2000 (PDA)* seeks to prevent foreign groups from interfering with domestic politics through donations to political associations¹⁰⁷ and candidates of parliamentary or presidential elections. *PDA*, administered by the Registry of Political Donations, prohibits political parties and candidates from accepting donations from persons or bodies that are not permissible donors.

5.5.2 *PDA* provides that a permissible donor is:

- (a) any individual who is a Singapore citizen and at least 21 years of age;
- (b) a Singapore-controlled company which carries on business wholly or mainly in Singapore; or
- (c) in relation to a candidate, any political party he or she is standing for at an election.

5.5.3 Donations other than those from permissible donors are considered impermissible donations. *PDA* allows a political party to accept anonymous donations of less than S\$5,000 (HK\$23,000) in any financial year of the party. There is no tax benefit for donations to political parties.

5.5.4 Political parties are required to submit a yearly donation report to the Registry of Political Donations within 31 days from the close of their financial year. The donation report should contain details of any single donation of S\$10,000 (HK\$46,000) or more and any series of donations from the same source, which adds up to S\$10,000 (HK\$46,000) or more in the financial year. These donation reports are not open to the public.

¹⁰⁷ Under *PDA*, the term 'political association' means —

- (a) a political party or an organisation which has as one of its objects or activities the promotion or procuring of the election to Parliament or to the office of President of a candidate or candidates endorsed by the organisation; or
- (b) an organisation (not being a branch of any organisation) whose objects or activities relate wholly or mainly to politics in Singapore and which is declared by the Minister, by order in the Gazette, to be a political association for the purposes of this Act."

Regulation of campaign finance

5.5.5 There is no campaign spending limit for political parties contesting at parliamentary elections in Singapore. There are only limits for campaign spending by or on behalf of individual candidates at parliamentary and presidential elections.

Funding of political parties

5.5.6 In Singapore, there is no financial assistance from public funds for political parties to run election campaigns or to perform their parliamentary duties. Details concerning party political broadcasts will be discussed in paragraphs 5.8.2-5.8.4.

5.6 Regulation of selection of candidates for election

5.6.1 In Singapore, there is no regulation of how political parties select their members to be candidates for election.

5.6.2 However, there is a restriction for party members to be candidates at a presidential election. Article 19(2)(f) of the *Singapore Constitution* requires that a presidential candidate is "*not a member of any political party on the date of his nomination for election.*"

5.7 Rules on party operations

5.7.1 As mentioned in paragraph 5.3.5 above, members of political parties must be confined to Singapore citizens, and political parties must not have affiliation or connection with any organization outside Singapore that is considered to be contrary to the national interest.

5.7.2 Political parties are required under SA to submit their annual returns and statement of accounts to the Registrar of Societies within 31 days from the close of their financial year. These returns and statements of accounts are not available for public inspection.¹⁰⁸

¹⁰⁸ Section 7, the *Societies Regulations* (regulations under SA).

5.8 Other related rules

Parliamentary rules

5.8.1 The *Singapore Constitution* provides that "*Parliament may, from time to time, make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business.*" There are only a handful of provisions in the Standing Orders relating to political parties. In particular, each of the various select committees is required to compose "*in such manner as shall ensure that, so far as is possible, the balance between the Government benches and the Opposition benches in Parliament is reflected in the Committee.*"¹⁰⁹

Broadcasting rules

5.8.2 In Singapore, the Media Development Authority makes available through local broadcasters free air time on radio and television for party political broadcasts in the days leading up to the parliamentary elections.¹¹⁰

5.8.3 Eligibility for these broadcasts is determined by the number of candidates fielded by a registered political party under a recognized party symbol¹¹¹. Independents and political parties fielding less than six candidates are not eligible for air time allocation.

5.8.4 Overall, rules are in place to govern the duration of the air time granted, the content aired, the speakers, the scripts and translations, and the order of broadcasts. The rules are found in the *TV Programme Code*, which is a code of practice¹¹² issued by the Media Development Authority.

¹⁰⁹ Standing Order 96(1)(b).

¹¹⁰ Information provided by the Elections Department.

¹¹¹ A symbol that has been approved by the Registrar of Societies for use by a registered political party.

¹¹² The Code is issued under the *Broadcasting Act*.

Internet rules

5.8.5 Political parties registered in Singapore providing any content on the World Wide Web are required to register with the Media Development Authority under the *Singapore Broadcasting Authority (Class Licence) Notification*¹¹³. Licensed political parties are required to comply with the *Internet Code of Practice*¹¹⁴. Under the *Broadcasting Act*, the Media Development Authority has the power to impose sanctions, including fines, on licensees who contravene *the Internet Code of Practice*.

5.8.6 During the election period, registered political parties' websites are required to observe the Internet campaigning rules in accordance with the *Parliamentary Elections (Amendment No. 2) Act 2001* and *Parliamentary Elections (Election Advertising) Regulations 2001*. Political party sites can publish party posters and manifestos, candidate profiles, party events and positions on issues, and some moderated chat and discussion forums. Any other Internet campaigning materials, such as election surveys and exit polls, announcements or notices referring to the sale of political merchandise and other fund-raising activities, are prohibited.

Film regulating rule

5.8.7 The *Film Act* was amended in 1998 to make importation, production, distribution and exhibition of party political films an offence.¹¹⁵ Under the Act, a party political film means a film:

- "(a) which is an advertisement made by or on behalf of any political party in Singapore or any body whose objects relate wholly or mainly to politics in Singapore, or any branch of such party or body; or
- (b) which is made by any person and directed towards any political end in Singapore."

¹¹³ The Class Licence Scheme was introduced in 1996. The Notification is available at http://www.mda.gov.sg/medium/internet/i_classlicence.html.

¹¹⁴ The Code is available at http://www.mda.gov.sg/medium/internet/i_codenpractice.html.

¹¹⁵ Section 33, the *Film Act*.

Connection with other organizations

5.8.8 Some organizations are legally prohibited from engaging in matters relating to political parties. Section 11(2) of the *National Council of Social Service Act* stipulates that the National Council of Social Service shall not engage in any matter of "*party political controversy*." Members of any political association cannot be appointed as a member of the Public Service Commission.¹¹⁶

5.8.9 A restraining order may be issued under the *Maintenance of Religious Harmony Act* if members of a religious group or institution carry out activities to promote a political cause, or a cause of any political party while propagating or practising any religious belief.¹¹⁷ Registered trade unions are prohibited from using their funds to make contributions to a political party or for a political purpose.¹¹⁸

Anti-defection rule

5.8.10 Article 46(20) of the *Singapore Constitution* provides that the seat of an MP shall be vacated "*if he ceases to be a member of, or is expelled or resigns from, the political party for which he stood in the election.*"

¹¹⁶ Article 106(2), the *Singapore Constitution*.

¹¹⁷ Section 8(1), the *Maintenance of Religious Harmony Act*.

¹¹⁸ Section 49(1)(a), the *Trade Unions Act*.

Chapter 6 - Analysis

6.1.1 Tables 1 to 8 (on pages 48-55) summarize various attributes of the regulating system of political parties in the four places studied and the Hong Kong Special Administrative Region (HKSAR). The following analysis will look at some of the important issues with reference to HKSAR.

Mode of regulatory framework

6.1.2 In the four places studied, the modes of regulatory framework of political parties are quite different. Political parties in Germany are subject to a wide range of legal regulations, including the constitution, rulings of the constitutional court, a specific law on political parties and relevant provisions of electoral laws. The *Law on Political Parties (LPP)* regulates the functions, internal structure, donation and funding of political parties.

6.1.3 For a long period of time in the past, political parties in the UK had been subject to the general law. The enactment of the *Political Parties, Elections, and Referendums Act 2000 (PPERA)* has provided for a detailed regulatory system controlling the registration, donation and expenditure of political parties.

6.1.4 New Zealand does not have separate legislation for political parties. It mainly uses its electoral law to govern the registration, donation and campaign expenditure of political parties.

6.1.5 Singapore also does not have specific legislation for political parties, but they are subject to a wide range of legal regulations. Different aspects of political parties are regulated by various pieces of legislation, including the *Societies Act (SA)*, the relevant provisions of electoral laws, a political donation law and broadcasting laws.

6.1.6 In HKSAR, there are only a handful of legal provisions in relation to political parties. The freedom of association is expressly guaranteed under Articles 27 and 39 of the *Basic Law of HKSAR*.¹¹⁹ Article 23 of the *Basic Law of HKSAR* prohibits foreign political organizations or bodies from conducting political activities in HKSAR and local political organizations from establishing ties with foreign political organizations.¹²⁰ The legal meaning of a political party is stated in an electoral law — the *Chief Executive Election Ordinance*.¹²¹

Registration requirements

6.1.7 In Germany, the UK and New Zealand, the establishment of a political party does not require special registration. However, political parties in these three places are required to register with designated electoral authorities in order to be eligible for certain elections.

6.1.8 In Germany, the term "political party" is clearly defined in the constitution and *LLP*. There is no statutory definition of political parties in the UK and New Zealand. In general, the application for registration in these three places requires the provision of a party's name, the party statutes, the proof of formal leadership and information on party membership.

6.1.9 In Singapore, the establishment of a political association is required to be registered under *the Societies Act (SA)*. It has to confine its membership to citizens of Singapore and must not have affiliation or connection with any organization outside Singapore that is considered by the Registrar of Societies to be contrary to the national interest.

¹¹⁹ Article 27 provides that Hong Kong residents "shall have ...freedom of association..." Article 39 provides that "[t]he provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless prescribed by law."

¹²⁰ Article 23 of the *Basic Law of HKSAR* provides that HKSAR "shall enact law on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."

¹²¹ Under the Ordinance, a political party means:

- (a) a political body or organization (whether operating in Hong Kong or elsewhere) which purports to be a political party; or
- (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a member of the Legislative Council or any District Council."

6.1.10 In HKSAR, most major political parties are registered as companies under the *Companies Ordinance*. In addition, five societies registered under the *Societies Ordinance*¹²² (*SO*) have fielded candidates for the general election or by-election in either the Legislative Council or District Councils.¹²³ There is no definition of the term "political party" under *SO*. According to *SO*, a political body means a political party or an organization that purports to be a political party; or an organization whose principal function or main object is to promote or prepare a candidate for an election.

6.1.11 In accordance with Section 5A(3)(b) of *SO*, the Societies Officer may, after consultation with the Secretary for Security, refuse to register a society if the society is a political body that has connection with a foreign political organization or a political organization of Taiwan.

6.1.12 A regulation¹²⁴ recently passed in HKSAR allows a prescribed body to register its name and emblem with the Electoral Affairs Commission for being printed on ballot papers. A prescribed body means a prescribed political body¹²⁵ or a prescribed non-political body.

Proscription of political parties

6.1.13 Among the places studied, only Germany has specific legal provisions related to the banning of political parties. In Germany, the Federal Constitutional Court is empowered by the constitution to decide on the question of constitutionality of a political party based on whether the party aims at obstructing or abolishing the system of democracy.

¹²² The *Societies Ordinance* was originally enacted as the *Triad and Unlawful Societies Ordinance* in 1897 and the legislation applied only to triad societies. The existing *Societies Ordinance* was enacted in 1949 in order to govern societies formed in Hong Kong. The Ordinance provides for the registration of societies, the prohibition of the operation of certain societies and matters related thereto. For detailed information on the development of the *Societies Ordinance*, see Legal Service Division, "Background Information on the Societies Ordinance," HK: the Legislative Council Secretariat, 30 July 2003, available at <http://www.legco.gov.hk/yr02-03/english/bc/bc55/papers/bc55-113-e.pdf>.

¹²³ The HKSAR Government's response to questions raised by Hon James To on 4 December 2002, p. 6, available at <http://www.legco.gov.hk/yr02-03/english/panels/ajls/papers/ajlsse0107cb2-839-1e.pdf>.

¹²⁴ The *Particulars Relating To Candidates On Ballot Papers (Legislative Council) Regulation* (except Part 2) came into force on 6 February 2004. Part 2 of the *Regulation* shall come into operation on 2 July 2004.

¹²⁵ A prescribed political body means a body or organization operating in HKSAR that is a political party, purports to be a political party, or has the principal function or main object to prepare a candidate for election.

6.1.14 In the UK and New Zealand, there is no rule specifically used to ban political parties. However, there are legal provisions related to the banning of political organizations. They primarily concern public order and terrorism. In these places, terrorism has a definition wide enough to include terrorist acts made by domestic political organizations for the purpose of advancing a political or ideological cause.

6.1.15 In Singapore, under *SA*, a Minister may order dissolution of a political association when the political association has affiliation or connection with any foreign organization that is considered to be contrary to the national interest, and fails to sever that affiliation or connection in accordance with a direction from the Registrar of Societies to do so.

6.1.16 In HKSAR, there is no rule specifically used to ban political parties. However, under the current law, any society or company can be banned by the Government on the grounds of national security.¹²⁶

6.1.17 Under *SO*, the Societies Officer may recommend to the Secretary for Security to make an order prohibiting the operation of a society if:

- (a) the Officer reasonably believes that the prohibition of the operation of a society is necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others; or
- (b) the society is a political body which has connection with a foreign political organization or a political organization of Taiwan.¹²⁷

6.1.18 In relation to the prohibition of the operation of a society, *SO* provides the society concerned with an opportunity to be heard or to make representations before a prohibition order is made.¹²⁸

¹²⁶ On 26 February 2002, the HKSAR Government introduced the *National Security (Legislative Provisions) Bill* into LegCo so as to implement Article 23 of the *Basic Law of HKSAR*. Under the bill, the Secretary of Security was empowered to proscribe by order a local organization if he or she reasonably believed that the proscription was necessary in the interests of national security. The bill was withdrawn on 5 September 2003. For details, see "Report of the Bills Committee on National Security (Legislative Provisions) Bill," LegCo paper No. CB(2)2646/02-03, pp. 24-35, available at <http://www.legco.gov.hk/yr02-03/english/hc/papers/hc0627cb2-2646e.pdf>.

¹²⁷ Section 8(1), *SO*.

¹²⁸ Section 8(3), *SO*.

6.1.19 In HKSAR, the Chief Executive in Council can make an order to the Registrar of Companies to strike a company off the register of companies. The order can be made if he or she is satisfied that a company formed and registered would, if it were a society in respect of which *SO* applied, be liable to have its registration or exemption from registration cancelled or its operation or continued operation prohibited by the Secretary for Security under Section 8 of *SO*.¹²⁹

6.1.20 Having similar effects as the relevant provisions in both the UK and Singapore, Section 5 of the *Public Order Ordinance* in HKSAR regulates the prohibition of quasi-military organizations.

Rules for party and campaign financing

Donations

6.1.21 In all of the places studied, there are detailed legal provisions regulating donations to political parties. In both the UK and Singapore, permissible donors are defined by relevant legislation. In Germany, the law prohibits certain kinds of donations. In New Zealand, the regulation is less restrictive as political parties are allowed to accept donations from both known persons (including corporations) and anonymous sources.

6.1.22 In all of the places studied, there is no limit on donations to political parties. However, foreign donations are not allowed in both the UK and Singapore. Foreigners are permitted to donate up to a limit in Germany.

6.1.23 In HKSAR, there is no rule regulating donations to political parties.

Campaign finance

6.1.24 In the four places studied and HKSAR, only the UK and New Zealand place a campaign expenditure limit on political parties.

Funding of political parties

6.1.25 In Germany, public funding of political parties is prescribed under *LPP*. Levels of funding of political parties are based on the number of votes, party membership and private contributions. Traditionally, public funding of political parties in the UK has been mainly confined to financial assistance to opposition parties in Parliament. In recent years, there have been discussions on how to broaden the scope of funding of political parties in the UK.

¹²⁹ Section 360C, the *Companies Ordinance*. For details, see "Background information on the Societies Ordinance," (n 122 above) Part E.

6.1.26 In New Zealand, public funding is available for political parties to perform their parliamentary duties. Singapore as well as HKSAR do not provide any financial assistance for political parties to run election campaigns or to perform their parliamentary work.¹³⁰

Regulation of selection of candidates for election

6.1.27 In both Germany and New Zealand, there are legal provisions requiring that political parties follow democratic procedures in candidate selections. In the UK, there are legal means to enable political parties, if they wish, to adopt positive measures to reduce sex inequality in the number of men and women elected as candidates of their parties.

6.1.28 In Singapore and HKSAR, there is no regulation on how political parties select their members as candidates for election. However, there is restriction against party members to be candidates for Singapore presidential elections. In HKSAR, under Section 31(1) of the *Chief Executive Election Ordinance*, a winning candidate at a Chief Executive election must (a) make a declaration that he or she is not a member of any political party; and (b) undertake that he or she will not, if appointed as the Chief Executive, become a member of any political party, or do any act that has the effect of subjecting himself/herself to the discipline of any political party.

Broadcasting rules

6.1.29 In all of the places studied, extensive restrictions are placed on the use of broadcasting media for political advertising. However, they all offer free or discounted air time on radio and television to political parties at elections. In Germany, political parties are provided free broadcasting time during elections. In addition, private television channels are obliged by law to offer appropriate air time at reduced tariffs to all political parties.

6.1.30 In the UK, the public service broadcasting system (by convention) and certain commercial broadcasters (by statute) provide free air time to qualifying parties during elections and at other key events in the political calendar.

¹³⁰ In HKSAR, a financial assistance scheme has been introduced for candidates standing in LegCo elections. Detailed implementation procedures for the scheme are provided in the *Electoral Affairs Commission (Financial Assistance for Legislative Council Elections)(Application and Payment Procedure) Regulation*, which shall come into operation on 15 July 2004.

6.1.31 In New Zealand, there are legal requirements to allocate air time and money to registered political parties for broadcasting at general elections. In Singapore, qualifying parties are provided free air time on radio and television in the days leading up to parliamentary elections.

6.1.32 In HKSAR, commercial broadcasters, including operators of television and radio channels, are generally not allowed to accept advertisements of a political nature.¹³¹ Political parties in HKSAR are not provided with either air time or money for broadcasting at elections.

¹³¹ Schedule 4 Section 12 and Schedules 5-7, the *Broadcasting Ordinance*. Under the *Radio Code of Practice on Advertising Standards*, no advertisement of a political nature shall be broadcast except with the prior approval of the Broadcasting Authority.

Table 1 — Mode of regulatory framework

Places	Regulatory framework	Definition of Political Parties
Germany	The <i>Basic Law of the Federal Republic of Germany</i> , rulings of the Federal Constitutional Court, the <i>Law on Political Parties (LPP)</i> , the <i>Federal Electoral Law</i> and international human rights law.	According to <i>LPP</i> , " political parties are defined as: "associations of citizens which exert influence permanently or for longer periods of time on the formation of the political will at federal or Land level and participate in the representation of the people in the German Bundestag or regional parliaments (Landtag) provided that they offer sufficient guarantee of the sincerity of their aims in the general character of their circumstances and attendant conditions, particularly with regard to the size and strength of their organization, their memberships and their conduct in public. Only natural persons may be members of a party."
UK	The <i>Political Parties, Elections, and Referendums Act 2000 (PPERA)</i> and international human rights law.	No definition.
New Zealand	The <i>Electoral Act 1993</i> and international human rights law.	No definition.
Singapore	The <i>Singapore Constitution</i> , the <i>Societies Act (SA)</i> , <i>Parliamentary Elections Act (PEA)</i> , and the <i>Political Donations Act 2000</i> .	According to <i>PEA</i> , a political party is defined as a political party which is registered under <i>SA</i> .
HKSAR	Primarily not regulated.	Under the <i>Chief Executive Election Ordinance</i> , a political party means: "(a) a political body or organization (whether operating in Hong Kong or elsewhere) which purports to be a political party; or (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a member of the Legislative Council or any District Council."

Table 2 — Registration requirements

Places	Registration for party establishment	Registration for participation in elections	Major registration requirements
Germany	No special registration requirement.	Register to participate in elections under relevant regulations in the federal or local election laws.	(a) The party's name (b) the party's statutes; (c) the party's programme; and (d) the proof of formal leadership.
UK	No special registration requirement.	Register to participate in elections under the <i>Political Parties, Elections, and Referendums Act 2000</i> .	(a) The party's name; (b) at least two party officers; (c) the party's constitution; and (d) a financial scheme showing how the party will comply with the financial controls.
New Zealand	No special registration requirement.	Register to participate in elections under the <i>Electoral Act</i> .	(a) The party's name; (b) the party's auditor; and (c) at least 500 current financial members.
Singapore	Required, the establishment of a political association requires registration under <i>SA</i> .	Not required.	(a) The society's name; (b) the society's rules, which must provide for its membership confined to citizens of Singapore; and (c) no affiliation with any foreign organization.
HKSAR	No special registration requirement.	Not required.	NA.

Table 3 — Proscription of political parties

Places	Relevant rules	Provisions
Germany	<i>Basic Law of the Federal Republic of Germany.</i>	The Federal Constitutional Court has the power to decide on the question of constitutionality of a political party based on whether the party aims at obstructing or abolishing the system of democracy.
UK*	(a) <i>Public Order Act 1936.</i>	(a) Forbidding quasi-military organizations.
	(b) <i>Terrorism Act 2000.</i>	(b) The Secretary of State has the power to proscribe terrorist organizations which he or she believes to be "concerned in" terrorism.
New Zealand*	<i>Terrorism Suppression Act 2002.</i>	The Prime Minister has the power to designate an entity as a terrorist entity and this designation makes any dealing with the property or finances of that entity an offence.
Singapore*	(a) <i>Societies Act.</i>	(a) A Minister may order dissolution of a political association when the political association has affiliation or connection with any foreign organizations that is considered to be contrary to the national interest and fails to sever that affiliation or connection in accordance with a direction from the Registrar of Societies to do so.
	(b) <i>Internal Security Act.</i>	(b) Forbidding quasi-military organizations.
HKSAR*	(a) <i>Societies Ordinance.</i>	(a) The Societies Officer may recommend to the Secretary for Security to make an order prohibiting the operation of a society if: (i) the Officer reasonably believes that the prohibition of the operation of the society is necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others; or (ii) the society is a political body which has connection with a foreign political organization or a political organization of Taiwan.
	(b) <i>Public Order Ordinance.</i>	(b) Forbidding quasi-military organizations.

* In these places, there is no rule specifically used to ban political parties.

Table 4 — Regulation of donation

Places	Relevant rules	Acceptance of donation				Reporting requirements
		Permissible Donors	Foreign donation	Cap on donation	Anonymous donation	
Germany	<i>Law on Political Parties.</i>	Both individual and corporate donations are permissible, except donations from political foundations, parliamentary groups and charities.	Foreigners may donate at most DM1,000 (HK \$4,900).	No.	More than DM1,000 (HK\$4,900) are not allowed.	Parties submit annual accounts to the President of the Bundestag. All donations of DM20,000 (HK\$98,000) or more must be recorded with donors' names and addresses.
UK	<i>Political Parties, Elections and Referendums Act 2000 (PPERA).</i>	Permissible donors defined by <i>PPERA</i> , including registered voters, political parties, local companies, trade unions and building societies.	Not allowed.	No.	Not allowed.	A quarterly report to the Electoral Commission, listing all donations of more than £5,000 (HK\$70,500) accepted by the party's headquarters and donations of more than £1,000 (HK\$14,100) accepted by branches of the party. A weekly report for donations over £5,000 (HK\$70,500) during a general election period.
New Zealand	<i>Electoral Act 1993.</i>	Known persons (including corporations) or anonymous sources are permissible.	Allowed.	No.	Allowed.	An annual audited return to the Electoral Commission, showing the names and addresses of donors who have made one or more donations totalling NZ\$10,000 (HK\$50,000). Each anonymous donation in excess of NZ\$10,000 (HK\$50,000) must also be included in the return.
Singapore	<i>Political Donations Act 2000 (PDA).</i>	Permissible donors defined by <i>PDA</i> , including Singapore citizens, Singapore-controlled companies and political parties.	Not allowed.	No.	Less than S\$5,000 (HK\$23,000) are allowed.	An annual donation report to the Registrar of Political Donations, including details of any single donation or a series of donations from the same source totalling S\$10,000 (HK\$46,000) or more.
HKSAR	None.	NA.	NA.	NA.	NA.	NA.

Table 5 — Regulation of party campaign finance

Places	Restrictions on party campaign finance	Party campaign expenditure limit	Reporting requirements
Germany	No.	NA.	NA.
UK	Yes, only for registered parties.	For a general election, within a period of 365 days ending with the date of the poll, the expenditure limit is £30,000 (HK\$423,000) per constituency contested, or £810,000 (HK\$11.4 million) in England, £120,000 (HK\$1.7 million) in Scotland, and £60,000 (HK\$846,000) in Wales, depending on which sum is larger.	A return to the Electoral Commission within three months of the election, for an expenditure of £250,000 (HK\$3,525,000) or less, or within six months if more than £250,000 (HK\$3,525,000).
New Zealand	Yes, only for registered parties.	NZ\$1 million (HK\$5 million) if the party nominates a party list, plus NZ\$20,000 (HK\$100,000) for each electorate contested by a candidate for that party.	Within 50 days after the declaration of the election, a return of election expenses with an audit report to the Electoral Commission.
Singapore	No.	NA.	NA.
HKSAR	No.	NA.	NA.

Table 6 — Funding of political parties

Places	Public Funding	Major provisions*
Germany	Yes.	(a) State funding for political parties, based on the number of votes received, party membership and private contributions; (b) funding for parliamentary party groups and research foundations directed by major political parties; and (c) tax incentives for small personal political donations and party membership dues.
UK	Yes.	(a) Financial assistance to opposition parties in Parliament; (b) leaders of the Opposition receiving an additional salary; and (c) a policy development grants scheme for parties with two or more MPs.
New Zealand	Yes.	(a) Funding for political parties to perform their parliamentary duties; and (b) leaders of the Opposition and other parties receiving an additional salary.
Singapore	No.	NA.
HKSAR	No.**	NA.

* The election broadcasting support is shown in Table 8.

** In HKSAR, a financial assistance scheme has been introduced for candidates standing in LegCo elections. Detailed implementation procedures for the scheme are provided in the *Electoral Affairs Commission (Financial Assistance for Legislative Council Elections)(Application and Payment Procedure) Regulation*, which shall come into operation on 15 July 2004.

Table 7 — Regulation of selection of candidates for election

Places	Details	Relevant rules
Germany	A party candidate is required to be elected through an assembly of party members, a special assembly or a general assembly of party representatives. In all cases, all candidates and delegates must be elected by secret ballot.	<i>Law on Political Parties and the Federal Electoral Law.</i>
UK	Political parties, if they wish, are allowed to adopt positive measures to reduce inequality in the number of men and women elected as party candidates.	<i>Sex Discrimination (Election Candidates) Act.</i>
New Zealand	Registered parties are required to follow democratic procedures in candidate selection.	<i>Electoral Act 1993.</i>
Singapore	No.	NA.
HKSAR	No.	NA.

Table 8 — Broadcasting rules

Places	Election Broadcasting Support for parties	Provisions
Germany	Yes.	(a) Free public radio and television time during elections; and (b) private television channels obliged by law to offer appropriate air time at reduced tariffs.
UK	Yes.	(a) Free public radio and television time during elections; and (b) certain commercial broadcasters required by law to offer free air time during elections.
New Zealand	Yes.	(a) Free or discounted broadcasting time during elections; and (b) money for registered political parties to broadcast election programmes.
Singapore	Yes.	Free air time on radio and television in the days leading up to parliamentary elections.
HKSAR	No.	NA.

References

Books & articles

1. Austin, Reginald. & Tjernström, Maja. eds., *Funding of Political Parties and Election Campaigns*, Stockholm: IDEA, 2003.
2. Brazier, Rodney. *Constitutional Practice: the Foundations of British Government: The Foundations of British Government*, 3rd ed., Oxford: Oxford University Press, 1999.
3. Busby, Nicole. "Sex Equality in Political Candidature: Supply and Demand Factors and the Role of the Law," *The Modern Law Review*, Vol. 66, 2003, pp. 245-60.
4. Camerson, Iain. *National Security and the European Convention on Human Rights*, the Hague: Kluwer Law International, 2000.
5. Clayton, Richard. & Tomlinson, Hugh. *The Law of Human Rights*, Oxford: Oxford University Press, 2000.
6. Davis, Howard. *Human Rights and Civil Liberties*, Devon, UK: Willan Publishing, 2003.
7. Davis, Howard. *Political Freedom: Associations, Political Purposes and the Law*, London: Continuum, 2000.
8. Foster, Nigel. & Sule, Satish. *German Legal System and Laws*, 3rd ed., Oxford: Oxford University Press, 2002.
9. Geddis, Andrew. "Reforming New Zealand's Election Broadcasting Regime," *Public Law Review*, Vol. 14, 2003, pp. 164-82.
10. Ipsen, Jörn. "Political Parties and Constitutional Institutions," in Christian Starck, ed., *Studies in German Constitutionalism*, Baden-Baden: Nomos Verl., 1995, pp. 195-243.
11. Joseph, Philip A. "Review: Constitutional Law," *New Zealand Law Review*, 2003, pp. 449-73.
12. Joseph, Philip A. *Constitutional and Administrative Law in New Zealand*, 2nd ed., New Zealand: Bookers, 2001.

13. Koçak, Mustafa. & Öricü, Esin. "Dissolution of Political Parties in the Name of Democracy: Cases from Turkey and the European Court of Human Rights," *European Public Law*, Vol. 9(3), 2003, pp. 399-423.
14. Kommers, Donald P. *The Constitutional Jurisprudence of the Federal Republic of Germany*, 2nd ed., Durham: Duke University Press, 1997.
15. Lei, Feilong. *Zhengdang yu Zhengdang Zhidu zhi Yanjiu (The Study of Political Parties and the Structure of Political Parties)*, Taipei: Weibo Chubanshe, 2002.
16. Leong, Andrew Phang Boon. *The Development of Singapore Law*, Singapore: Butterworths, 1990.
17. Li-ann, Thio. "The Right to Political Participation in Singapore: Tailor-making a Westminster-modelled Constitution to Fit the Imperatives of 'Asian' Democracy," *Singapore Journal of International & Comparative Law*, Vol. 6, 2002, pp. 181-243.
18. Marshall, Geoffrey. *Constitutional Conventions: The Rules and Forms of Political Accountability*, Oxford: Clarendon Press, 1986.
19. Mauzy, D. & Milne, R. *Singapore Politics Under the People's Action Party*. London: Routledge, 2002.
20. McLeay, Elizabeth. "What is the Constitutional Status of the New Zealand Cabinet Office Manual?" *Public Law Review*, Vol. 10(1), 1999, pp. 11-6.
21. Michalowski, Sabine. & Woods, Lorna. *German Constitutional Law: The Protection of Civil Liberties*, Aldershot: Dartmouth, 1999.
22. Nassmacher, Karl-Heinz. "Party Funding in Continental Western Europe," in Reginald Austin & Maja Tjernström, eds., *Funding of Political Parties and Election Campaigns*, Stockholm: IDEA, 2003, pp. 117-37.
23. Neuhoff, Klaus. "Legal and Fiscal Provisions for Charitable and Non-profit Foundations and Related Institutions in Germany," in Paul Bater *et al.*, *The Tax Treatment of NGO's: Legal, Fiscal and Ethical Standards for Promoting NGO's and their Activities*, The Hague: Kluwer Law International, 2004, pp. 89-138.
24. Plasser, Fritz. *Global Political Campaigning: A Worldwide Analysis of Campaign Professionals and Their Practices*, Westport, Connecticut: Praeger, 2002.
25. Rensmann, Thilo. "Procedure Fairness in a Militant Democracy: The "Uprising of the Decent" Fails Before the Federal Constitutional Court," *German Law Journal*, Vol. 4, No.11, 2003, pp. 1117-36.

26. Rishworth, Paul. *et al.*, *The New Zealand Bill of Rights*, Oxford: Oxford University Press, 2003.
27. Saalfeld, Thomas. "Bureaucratisation, Coordination and Competition: Parliamentary Party Groups in the German Bundestag," in PaKnut Heidar & Ruud Koole, eds., *Parliamentary Party Groups in European Democracies*, London: Routledge, 2000, pp. 23-38.
28. Tan, Kevin YL. & Li-ann, Thio. *Constitutional Law in Malaysia & Singapore*, 2nd ed., Singapore: Butterworths, 1997.
29. von Arnim, Hans Herbert. "Campaign and Party Finance in Germany," in Arther B. Gunlicks, *Campaign and Party Finance in North America and Western Europe*, San Jose: to Excel Press, 2000, pp. 201-18.
30. Walker, Clive. *Blackstone's Guide to the Anti-terrorism Legislation*, Oxford: Oxford University Press, 2002.
31. Zimmermann, Andreas. "Germany," in Robert Blackburn & Jörg Polakiewicz eds., *Fundamental Rights in Europe*, Oxford: Oxford University Press, 2001, pp. 335-54.

Other Materials

Germany

1. The *Law on Political Parities*, available at: http://www.bundeswahlleiter.de/rechtsgr/e/partg_e.htm.
2. The Federal Returning Officer, *ABC of the 2002 Bundestag Election*, Wiesbaden, 2002, available at: <http://www.bundeswahlleiter.de/download/abc2002e.pdf>.

The UK

1. Sear, Chris. "Short Money," House of Commons Standard Note Paper N/PC/1663, 23 January 2004, available at: <http://www.parliament.uk/commons/lib/research/notes/snpc-01663.pdf>.
2. The Secretary of State for the Home Department and the Secretary of State for Northern Ireland, *Legislating Against Terrorism: A Consultation Paper*, 1998 available at: <http://www.archive.official-documents.co.uk/document/cm41/4178/4178.htm>.

3. The Independent Commission on PR, "Report on Candidate Selection," 2002, available at:
http://www.prcommission.org/files/14_november_2002/6_candidate_selection.pdf.
4. The Electoral Commission, *Party Political Broadcasting: Report and Recommendations*, January 2003, available at:
http://www.electoralcommission.org.uk/files/dms/Partypoliticalbroadcasting_cons_6644-6215__E__N__S__W__.pdf.
5. The Electoral Commission, *The Funding of Political Parties*, May 2003, available at:
<http://www.electoralcommission.gov.uk/templates/search/document.cfm/7955>.
6. The Electoral Commission, *Political Parties, Elections and Referendums Act 2000 – Recommendations for Change*, June 2003, available at:
http://www.electoralcommission.org.uk/files/dms/PPERAreport_9816-7984__E__N__S__W__.pdf.

New Zealand

1. Cabinet Office, *Cabinet Manual 2001*, Wellington: New Zealand, 2001, available at: <http://www.dpmc.govt.nz/cabinet/manual/table.html>.
2. The Electoral Commission, *Guide to Registration of Political Parties and Party Logos*, available at: <http://www.elections.org.nz/esyst/PartyRegistration.pdf>.
3. The Electoral Commission, *Guide to Broadcasting at Parliamentary Elections*, available at: <http://www.elections.org.nz/elections/pandr/broadcasting.pdf>.
4. The Electoral Commission, *Guide to Disclosure of Donations Made to Political Parties*, available at:
http://www.elections.org.nz/elections/pandr/Party_Donations.pdf.
5. The Electoral Commission, *Guide to Election Expenses for Registered Political Parties*, available at: <http://www.elections.org.nz/elections/pandr/expenses.pdf>.
6. *New Zealand Standing Orders 1999: Standings Orders of the House of Representatives*, available at:
<http://www.clerk.parliament.govt.nz/publications/StOrders.pdf>.

Singapore

1. *Standing Orders of the Parliament of Singapore.*
2. *The Internet Code of Practice*, available at:
http://www.mda.gov.sg/medium/internet/i_codenpractice.html.
3. Registry of Political Donations, *Political Donations Act 2000 Handbook*, available at: <http://www.elections.gov.sg/rpd/Registry.html>.

Hong Kong

1. Chau, Pak-kwan. *Systems of Government in Some Foreign Countries: Singapore*, HK: Secretariat of the Legislative Council, 2000, available at:
<http://www.legco.gov.hk/yr99-00/english/sec/library/990rp03.pdf>.
2. Chau, Pak-kwan. "Some Basic Information on Constitutional Conventions," HK: Legislative Council Secretariat, 2002, available at:
<http://www.legco.gov.hk/yr01-02/english/sec/library/0102in26e.pdf>.
3. Chau, Pak-kwan. *The Relationship between the Government and the Opposition or Minority Parties in Selected Places*, HK: Legislative Council Secretariat, 2002, available at:
<http://www.legco.gov.hk/yr02-03/english/sec/library/0203rp01e.pdf>.
4. Legal Services Division, "Background Information on the Societies Ordinance," HK: Legislative Council Secretariat, 30 July 2003, available at
<http://www.legco.gov.hk/yr02-03/english/bc/bc55/papers/bc55-113-e.pdf>.
5. "Report of the Bills Committee on National Security (Legislative Provisions) Bill," LegCo paper No. CB(2)2646/02-03, available at
<http://www.legco.gov.hk/yr02-03/english/hc/papers/hc0627cb2-2646e.pdf>.

Others

1. The European Commission For Democracy Through Law, "Guidelines on Prohibition and Dissolution of Political Parties and Analogous Measures," adopted by the Venice Commission at its 41st plenary session, 11 December 1999, available at: [http://www.venice.coe.int/docs/2000/CDL-INF\(2000\)001-e.html](http://www.venice.coe.int/docs/2000/CDL-INF(2000)001-e.html).